United States Court of Appeals

for the Second Circuit

EXHIBITS

B

No. 76-6150

United States Court of Appeals

FOR THE SECOND CIRCUIT

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, *Plaintiff-Appellee*

v.

LOCAL 14, INTERNATIONAL UNION OF OPERATING ENGINEERS;
LOCAL 15, INTERNATIONAL UNION OF OPERATING ENGINEERS;
ET AL., *Defendants-Appellants*

On Appeal from the United States District Court for the Southern District of New York

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[redacted]

EXHIBIT VOLUME 2

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	Before: HON. CHARLES H. TENNEY, District Judge
Plaintiff	
vs.	72 CIVIL 2498
LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, ET AL.,	
Defendants.	

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New York, September 25,27,30, 1974
October 1, 1974

STENOGRAPHER'S MINUTES

136

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

vs. 72 Civ. 2498

LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, Local 15

Defendant.

September 25, 1974
10:00 A.M.

(Trial Resumed.)

P E R R Y M c Q U E E N, resumed the stand, previously sworn, testified as follows:

MR. DEVORKIN: Good morning, your Honor.

Before I begin, I want to make a request or an inquiry, in light of the holdiday this evening and tomorrow, whether we might adjourn earlier this afternoon than usual.

THE COURT: What time do you want to adjourn at?

MR. DEVORKIN: Perhaps 3 o'clock.

THE COURT: All right.

MR. KENNEDY: No objection.

MR. BRADY: No objection.

MR. DEVORKIN: Thank you very much.

DIRECT EXAMINATION CONTINUED

BY MR. DEVORKIN:

Q You are still under oath, Mr. McQueen.

A Yes.

Q Mr. McQueen, I show youwhat has been marked as Plaintiff's Exhibit 85 for identification, and I ask you if you recognize that (handing)?

A Yes. These are the papers that I brought to the union hall when I first went there.

Q And what are those papers?

A These are papers from the Job Corps Center, when I graduated, showing what machines I ran, what type of classes I attended, and so on.

MR. DEVORKIN: I offer Plaintiff Exhibit 85 in evidence.

MR. KENNEDY: No objection.

MR. BRADY: No objection.

THE COURT: Received.

xxx (Plaintiff Exhibit 85 marked in evidence.)

BY MR. DEVORKIN:

Q Mr. McQueen, on Monday we were discussing, I believe, at the end of the day the first time you went down to the union hall to look for work, and you said you were sent out on a well point job. How long did you sit in the hall before you went sent out on that first job?

A From two to three weeks.

Q How long did the first job last?

A It lasted, I think, four or five days.

Q What did you do on that well point job?

A I was maintenance man on the well points.

Q What does the maintenance man do on that job?

A We are supposed to hook up points, put them in the ground to suck the water out from the foundation so that you have a solid foundation.

Q When that job was over what did you do next?

A I reported back to the hall the following Monday morning.

Q And how long did you sit there?

A It might have been two or three weeks.

Q And then what happened, if anything?

A I went out again on well points.

Q And how long did that well point job last?

A I think it lasted about two days, two or three days.

Q Were you doing the same kind of work?

A The same type of work.

Q When that job was over what did you do next?

A Well points. It seemed everything I got was well point.

Q When that job was over did you return to the hall?

A You always returned to the hall the following

Monday.

Q And how long did you wait in the hall for the next job?

A The same time -- about two or three weeks.

Q What was your next job?

A Well point.

Q And how long did that last?

A I think that was the job I got in the Bronx. It asted about two and one half months.

EDITOR'S NOTE

Pages 848 were missing at time of filming. If, and when obtained, a corrected fiche will be forwarded to you.

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Q At or about that time did you have any conversations with any of the business agents or officers of Local 15?

A Yes. The job that I had they worked a lot of overtime, Saturdays, afternoons, you know, and I received a letter --

Q Let us take the period of time before you had this job in the Bronx, the two-and-a-half month job.

Did you have any conversations before this time with any of the officers or business agents of Local 15?

A Once on 14th Street when the hall was on 14th Street, I spoke to Danny Murphy why I was sitting in the hall so often, I was complaining I wasn't working, I needed work, and it seemed at that time Danny Murphy was the only one I could talk to in the union.

He was walking out of the union and so he said he will see what he can do for me. So he spoke to his father, I think it was his father, and his father looked at me and said, "What do you expect, to work every day?"

So I said, "Really, if I can I would like to work every day."

But I figured two, three days a week wouldn't be too bad.

Q Then the Bronx job was after that?

A Right.

Q How long did the Bronx job last?

A About two and a half months.

Q On these well point jobs when you were sent out from the hall were you sent out alone or sent out with other men?

A Normally if the job comes up they ask for a gang of five, four men and a foreman.

Q You mean on a well point job?

A Yes, it is a gang of five and normally the delegate would come out of the hall and call fourworking men and the foreman -- they didn't call the foreman, the foreman was there, so I really didn't know who the foreman is until you get there. They don't call the foreman in the hall.

Q On those few well point jobs you just mentioned here in court this morning were the four men that were assigned as a gang black or white?

A During that time in 1971 most of the gang were black.

Q What about the foreman?

A He was normally white. I never worked with a black foreman.

Q Have you ever seen a black well point foreman?

A I have never seen a black foreman in anything besides other trades.

Q What is the job of a foreman on a well point job?

A Mostly maintenance, the foreman is a working foreman. He is supposed to assist the gang, help them out.

Q Is the foreman always qualified to do that job?

A I was on a well point job once, I think at Pennsylvania Avenue, and the foreman came out on the job and told me he had never been on a well point job before in his life and, well, he didn't know what to do and I told him I was on gangs so many times, it is really not complicated, so I showed him what to do.

Q Was he black or white?

A He was white.

Q You said you were on this job in the Bronx for two and a half months?

A Yes, sir.

Q How many blacks were in that well point gang and how many whites?

A You consider that one job because you got a lot of overtime and that is money. At that time it was only two men, a guy named Austin.

Q Two whites?

A Two blacks.

Q I believe you mentioned that you went to the training school on Monday, at Kennedy Airport, and you took a test and were told you passed the test.

During this time you were going to the well point job did you remain in school?

MR. BRADY: That is not his testimony at all. He never testified he passed the test.

THE COURT: Ask him if he passed the test.

Q Mr. McQueen, when you went to school that first time what happened?

A When I first went to school, the first time Danny Murphy told me to see a certain foreman.

I reported to the foreman, I told him what I was going on. He told me he is going to test on the three machines that I told Danny about which was on the paper. He tested me on the backhoe and the loader and the dozer and he didn't say that I passed but he said that I did good enough, so I asked could I go up to the hall and shape? He said, "It is all right with me."

Q Now during that time you had these well point jobs did you continue to go to school?

A Let me see. I went to the school -- at that time

I didn't go to the school because I didn't know I had to go to that school. I didn't know I had to keep reporting to that school.

They didn't tell me I had to come back the following week and the following week.

Q Did anything happen as a result of your not going to school?

A When I was there on this job in the Bronx for two and a half months I received a letter from the union saying that they had put me out of the school because I missed five consecutive times. But I really didn't know what was going on because I did not know I had to go. They only told me to go one time.

So Monday morning I took the letter to Danny Murphy and I asked what is going on,"Why are you kicking me out of the school. Does that mean I can't shape the hall."

He said, "Right."

I couldn't sign the list and we got into complications and the talk became a little loud I guess, and I asked him if I can't shape the hall I can't work my trade because I can't work the local, I can't work my trade. That means I can't work.

It went on and on, and he said, "If you don't like it, go tell the NAACP."

So I said I will, but I got a job in the Post Office.

Q Where you ever told by anybody else you couldn't work your trade?

A Excuse me?

Q Were you ever told by anybody else you couldn't work your trade?

A No, because after that, they told me I couldn't sign the book, I never came back to the hall.

Q Anybody on the job site ever discuss with you getting work through the union?

A Yes, the same job in the Bronx. The foreman of the well point gang, he didn't live too far from me, and he used to pick me up and take me to work.

We got into conversations about, let's say, the union and black people in the union and black people in general, like that, and his name was David and we always spoke about that and he was trying to disencourage me of staying in the union because --

MR. BRADY: I object to this line of testimony.

THE COURT: I will sustain it. I don't know who this fellow is and whether he can bind the union.

Q Mr. McQueen, you said you went to the Post Office?

A Yes.

Q After this incident with Mr. Murphy?

A Yes.

Q During this period in 1971 when you were getting well point jobs were there other black men sitting in the hall while you were there?

A During these two or three-week periods I could be sitting in the hall, I see quite a few --

MR. BRADY: I move to strike this and I wish that the witness would respond to the question asked.

THE COURT: Well, let him answer the question.

Q Try to answer my question, Mr. McQueen, first.

Were there any other blacks in the hall at the time?

A Quite a few, always seen the same ones.

Q What kind of work if you were present were they getting at that time?

A Mostly well point. You could tell.

Q Were there white men shaping in the hall during that time?

A Yes.

Q Do you know if they were getting work?

A They was getting work, yes.

Q How would you know that?

A Because like when the agent comes out he calls

your name and he has a slip with the job written on it.

Q What does he do with that slip, if anything?

A Let's say he calls my name, he says McQueen, and I come up and he says, "You go to So-and-So job," which is in the slip.

I say yes, and he gives you a slip and you report to the job.

Q Did you see men leaving the hall with slips?

A Yes.

Q Were the men you saw there the same men or different men?

A Like I was saying, in the beginning I was sitting in the hall a number of days, and I have seen the same guy go out before I even went out on one job.

Q Were they white or black?

A White.

Q Did everybody who shaped the hall sign the list, as far as you know ?

MR. BRADY: Objection, your Honor.

THE COURT: How would he know that? I will let him answer if he can.

Q Do you know whether or not all the men who got work through the hall signed the list?

A Well, I will put it this way: on the Monday morning mostly all the men report to the hall --

MR. BRADY: Objection, and move to strike.

THE COURT: Can you answer it yes or no?

Q Do you know whether all the men who shape the hall sign the list?

A No, I don't think so.

Q Why do you not think so?

A Because like Monday morning normally all the men come to the hall to sign the list. You can get sent out to the job where the job is just starting, the guys are just starting the job that you didn't see on Monday.

Q Do men ever come into the hall and get work without signing the list?

MR. BRADY: Objection.

A Yes.

THE COURT: How does he know?

Q How does that happen?

A The man walks in the door and as soon as the delegate sees him he calls him up to the window and sends him on the job and he has not gone on the list.

Q Had you been sitting in the hall before that man came in?

A Yes.

Q You have seen that happen?

A Yes.

Q During that period in 1971 have you ever been told anything by any union official or delegate, anything about joining the union?

A No.

Q Or about training?

A Some type of training?

Q An opportunity to get training?

A No.

Q Anybody tell you anything about how to obtain work as an operating engineer?

A No.

Q While you were at the Post Office did you make any attempts to get work as an operating engineer?

A Well, like I say, I never went back to the hall, but a friend of mine, which he had a union book, he tells me that at a certain time the hall was so empty they were hiring guys from Westchester.

Q When was this?

A I think it was in 1972.

Q Do you know which part of the year?

A About June.

Q Before June, 1972, did you make any efforts from any source at all to get work as an operating engineer?

A Well, I got hooked up with Don Paphael in charge

of the PTP, and he was trying to get me a job up in Westchester because I was trying to get a union book so I could get into that union and get a job.

One time they called me and said they have a job and told me to bring my work clothes,but when I got to the job site there was only one man andhe said that the job didn't start and the machine I was going to run was a dozer and --

MR. BRADY: Just a minute, I object to this testimony with respect to the Westchester local.

MR. DEVORKIN: I am only having this testimony to show what the man tried to do to get work during this period of time.

THE COURT: Having nothing to do with this union?

MR. DEVORKIN: This is to show what this man tried to do.

THE COURT: I will take it, but that is the only purpose.

Q Did you get a job up there?

A When I got to the job site the guy said the job didn't start and the machine I was going to run was a dozer but there was only one machine, it was a backhoe.

Q You didn't get a job?

A I didn't get a job.

MR. BRADY: I wish now that counsel would stop leading the witness.

Q Mr. McQueen, you told us about a friend who told you about the conditions at Local 15?

A Yes.

Q Did you do anything as a result of that conversation?

A I called Tommy McGuire about the situation with the hall, that I heard that the hall was empty, and I told him I wasn't working.

I told him I was an operating engineer and had worked for the local before. I explained to him that they wrote me a letter and said I couldn't sign up any more.

As the conversation went on he told me to come down the following Wednesday and when I came down to see him he wasn't there but Danny Murphy told me to sit down and wait until he came and if the job came up he would give me a job.

But I sat down about a minute or so and he came over and offered me a job on Welfare Island.

Q Did you take that job?

A Yes.

Q How long did it last?

A The job lasted for a week, but I worked a day and got laid off, came back to the hall the following day and was told to go back to the same job, I worked two days and got laid off and went back to the hall and was told to come back on Friday, and I worked that Friday.

Q After that Friday did you go back to the hall?

A Yes.

Q How long did you sit in the hall before your next job came up?

A Quite a while, a month or so.

Q Did you do anything about that?

A I was getting frustrated sitting in thehall, I started writing letters.

Q What is the first letter you wrote?

A I wrote a letter to the president of the International and explained to him, asked what was going on and explained I have a family with kids and explained to him that actually my wife was supporting us and I wasn't doing anything.

Q Did you get any response to that first letter?

A Well, they didn't say anything to me about it.

Q Anything happen at the hall after that first letter?

A I didn't get a job right away but I did maybe a couple of weeks later on a well point.

Q How long did that last?

A About two or three days.

Q Did you go back to the hall?

A That following Monday.

Q Did you stay in the hall?

A I stayed about a month and a half or so.

Q Did you do anything after that?

A I wrote another letter.

Q Towhom?

A The same, the president of the International, Washington, D.C.

Q What did you say in that letter?

A I actually said almost the same thing, I wasn't working, and I want to know why I wasn't working and I explained about my family again, telling him I was having problems because I wasn't working.

Q What kind of problems?

A My wife was getting fed up because she was working nights and I was sitting home not doing anything. She knew I was trying to get a job because I was at the hall every morning, but she just couldn't take it.

Q Did you get any response from that letter to the International?

A No, I had my wife write a letter.

Q After that second letter did you get any work from the hall?

A I got work but not right after I wrote the letter. A couple of weeks or so.

Q What kind of work?

A I think on backhoes or something like that.

Q Where was that?

A The backhoe was one day at 125th Street.

Q Did you do anything else after that? You mentioned a letter from your wife?

A I had my wife write a letter -- she wrote a letter, I didn't make her -- because she was getting fed up, too.

Q Did you see a copy of that letter?

A Yes.

Q Do you know what the letter said?

A Well, the letter, the letter they sent to my wife was a reply, the union wrote a letter replying to her letter.

Q Let us take the letter she wrote first.

MR. KENNEDY: I don't mean to interrupt, but do you have copies of the letters?

THE COURT: They will be offered in evidence.

MR. KENNEDY: I would ask that they be offered now.

THE COURT: Do you have copies of those letters?

Q Do you have a copy of the letters, Mr. McQueen?

A I don't have copies of the letter I wrote but I have a copy of the letter written by the union.

Q Do you have a copy of the letter your wife wrote?

A No.

Q What did the letter that your wife wrote say?

MR. KENNEDY: If he saw it.

THE COURT: He said he saw it.

MR. KENNEDY: I am sorry.

A She explained the same thing that I wrote to the president. She explained to him she was working, she couldn't take it no more with me going to the hall two or three weeks while she was trying to get $80, $90 a week, and wanted to know why I wasn't getting work and why everything I go down to the union I get a well point job, and I was supposed to be accepted in the union as an operator.

Q After she wrote that letter did anything happen?

A Monday morning when I came to the window to sign up at the hall Tommy McGuire --

Q Which Tommy McGuire?

A Junior. He told me that he knew my wife wrote the letter and he said we don't do that type of stuff in

this type of business and you need a car and he also said --

Q A car?

A A car, yes. And he said that I had refused some jobs but I really didn't refuse any jobs.

Q What did you say to him?

A I think I told him I was buying a car at that time and I signed the book and sat down.

Q Where did you live at that time?

A In Queens at this time.

Q Did you ever get sent to any job near where you lived?

A No.

Q Where do you live now?

A In the Bronx.

Q Have you ever been sent to any job near where you live in the Bronx?

A No. There are jobs right across the street from my building.

Q Much construction?

A Quite a few buildings going up in the East Bronx, quite a bit. Where I live, there are buildings, apartment buildings, schools, I think about four different sets of cooperative buildings.

Q Is operating engineers equipment used on those

jobs?

A Yes.

Q Have you ever been sent to work on any of those jobs?

A Around where I live?

Q Yes.

A No.

Q After that conversation with Mr. McGuire, Jr., did you get any work from the hall?

A I went and sat down and the same day Frank Guma, a delegate but he represents Staten Island. I was in that time, I was with that local about a year, and during that time Frank Guma never offered me a job and up today he never offered me a job but one job. This job was for two days in Staten Island on well points.

They knew I didn't have a car, so I told him I didn't have no way of getting there. They wanted you to get there in a rush. I had no way of getting there, so he said, "You refuse the job?"

I said, "No, I have no way of getting there." And so I sat down and then Tommy McGuire gave me a job with Vacar Construction.

Q When was this, 1972 was this?

A After September somewhere.

Q After that period of time did you have any conversation with any Local 15 business agents or officers about getting into the union?

A No -- yes, yes.

I was working on this job. Danny Murphy called me at home and asked me was I ready to graduate.

I didn't know what he meant by graduate, but I said yes anyway. I learned to say yes in this union no matter what.

MR. BRADY: I move to strike that statement.

Q Continue, Mr. McQueen.

A That meant that he offered me a union book.

Q What did he say to you?

A He asked me was I ready to get my union book and I told him yes.

Q Did he tell you anything else?

A He told me to bring down $380, down to 14th Street at 8:30 Thursday night and I could get it.

Q Did you do that?

A Yes.

Q And when did you get into the union? What is the date of your initiation, if you recall?

A I think it is 12-- I have my union card.

(The witness produces and examines.)

12-14-72.

Q On that job back in 1971 in the Bronx doing well point, when you were on for two and one half months, did anybody say anything to you about getting into the union then?

A No.

Q After you got into the union what kind of work did you get?

A Since I have been in the union, so far -- since I have had a book I have been an oiler.

Q Take the first job you got after you got your book.

A I was an oiler.

Q For whom?

Do you remember the name of the company?

A I don't remember the name of the company but I

remember the job site.

Q What was that?

A That was on 161st Street and the Grand Concourse, in the Bronx.

Q What kind of equipment were you oiling?

A I was oiling a truck crane.

Q What kind of work was the crane doing -- hoisting?

A They was putting up the framework of a courthouse.

Q And how long did that job last?

A It lasted about two months.

Q What was your next job?

A My next job was with Vacar.

Q And what kind of work was that?

A I was an oiler on H-40 backhoe.

Q Is that a cat-mounted backhoe?

A Yes.

Q And how long did that job last?

A The job -- when I went to the job the machine was on 135th Street. We stayed there for a couple of weeks but the machine was actually going to Pier 90 over near 42nd Street, and we worked there for, I think a matter of a month and a half.

Q Is this Vacar Company a construction company or did they rent this equipment?

A They were subcontractors for Perini..

Q And their equipment would go to different jobs?

A Yes.

Q This job at 135th Street, was that a Perini job?

A Because after I was laid off from Pier 90 I went back to the hall. I think I stayed in the hall a week or so. They sent me back to Vacar, which put me back on 135th Street. On 135th Street we were putting in piles, and that job lasted about three months.

Q Now while you were an oiler -- were you still an oiler on machinery?

A Yes.

Q While you were an oiler did you ever get to operate machinery?

A On the H-40 the engineer that I had -- he was a young engineer, he would let me on the machine during lunch time, about 3 days in a row he would let me run the machine until he had some trucks delivered. One day he told me that Bobby Vacar -- he is the own of Vacar -- he told him that he didn't want me back in the seat, that he didn't want the oiler in the seat, so that was it.

Q Have you seen other oilers in the seat on that job?

A Quite a few.

Q White or black?

A White.

Q Do you still see them to this day?

A Yes.

Q How often during the day did those oilers operate?

A Well, sometimes the whole day; sometimes half a day; sometimes a coupleof hours.

Q When the oiler operated the whole day did the engineers stay there with him?

A No, I don't think so. Normally he leaves and the oiler takes over.

Q You have seen the oiler leave the job?

A Yes, sir.

Q How about the oilers -- do they stay on the job?

A Not all the time, no.

Q What do you mean "not all the time"?

A Well, like once I was called on 135th Street, when I was on the cruck crane, Vacar also had a pile rig. That means they had two engineers and two oilers. I was on one rig and this other oiler would come in, say about -- we would start work at 7 o'clock, so we would get there about a quarter after six or 6:30. He would do whatever he would do to his machine,and would leave -- he lived on the Island. He would leave, let us say, about 8 or 9 o'clock, and on the same job a steam rig came in, so they transferred the oiler

on the pile rig to the steam rig -- they transferred me from the truck crane to the pile rig. Okay. Now at that time I had an accident with the car that I had, so I had to leave, and so the next morning I came in the engineer told me -- he said "Look" --

MR. BRADY: Your Honor, I am going to move to strike that. The question was about oilers leaving the job. He is now past that.

MR. DEVORKIN: He is going to explain what happened to himself.

MR. BRADY: He has to answer your question, Mr. Devorkin.

A I have seen guys leaving --

Q Mr. McQueen, just answer my question, not Mr. Brady's.

The question is, do oilers always stay on the job?

A Not all the time, no.

Q Do white oilers always stay on the job?

A Not all the time.

MR. BRADY: Objection. The question was answered, "Do oilers stay on the job".

THE COURT: Overruled.

Q Have you ever asked to leave the job?

A Yes.

Q When was this incident that you were about to tell us about?

A Yes.

Q Will you continue and tell us about that?

A The engineer told me that as long as I was on the job I had to be on the job, so I asked, why was it that the other oiler could leave and I couldn't. He said "Well, that is because he is an old guy, he is an old timer" -- meaning the old timer could leave but I couldn't.

MR. BRADY: I object to "meaning", your Honor. I move to strike as not binding on the defendant.

THE COURT: I will take it for what it is worth.

Q Now Mr. McQueen, did you ever complain about that to anybody in the union?

A I didn't complain because there was a lot of reasons. First of all, I used to write letters about jobs --

MR. BRADY: Objection. I move to strike again. He has to answer the question.

Q All right, we will go one step at a time, Mr. McQueen, for Mr. Brady.

MR. BRADY: That is the way to try a case, Mr. Devorkin.

Q Why didn't you complain?

A Because I used to write letters which complained about

3-2

certain things. I seen I didn't get nowhere with the letters; and, second of all, I didn't know who to complain to. I didn't know my rights -- let us say the union by-laws for Local 15. I didn't know what I could do and what I can't do.

Q Did you ever try to find out what you can do and what you cannot do?

A Yes.

Q What did you do?

A Well, I have a friend in another local that told me that his local gives out union by-laws, saying what you can do on the job and what your jobs really relates to, and he said my union should give the same thing. So I called 14th Street and I spoke to one of the secretaries and I asked for a book of union by-laws.

Q What do you mean "one of the secretaries" -- one of the secretaries for whom?

A For Local 15.

Q Continue, please.

A (Continuing) And she said she was going to send me one out but I never got it.

Q While you have been on jobs have you ever seen how men are obtained as operating engineers for those jobs?

A Well --

Q Just yes or no, have you ever seen that?

A Yes.

Q Tell us what you have seen?

A Let us say they need a backhoe machine operator. The superintendent -- the last job I worked for was a city job, so the City Superintendent would tell the master mechanic theyneed a backhoe, so they need a backhoe man to operate it, and the master mechanic would call the local for men.

Q By the way, have you ever seen a black foreman on any job you ever worked on?

A I have never seen a black foreman, no, not from the engineers.

Q Have you ever seen a black master mechanic on any job you have ever worked on?

A Not from the engineers.

Q Have you ever sat in the union hall during the summertime?

A Yes.

Q And has anything happened in the summertime that doesn't happen at other times of the year with respect to the hiring hall?

A During the summertime when you have college kids, those college kids come in -- let us say they get out of

school for the summer and they would get jobs.

Q Tell us exactly what you have seen?

A Well let's say one morning we have a whole lot of kids --

MR. KENNEDY: May we have an identification as to time, your Honor, what year we are talking about?

THE COURT: Yes.

Q Which summertime have you seen this happen?

A Well, this is like when I first -- this is '71 and '72.

Q And where did you see this happen?

A This is on 14th Street.

Q In the Local 15 hiring hall.

A Yes.

Q And what did you see happen?

A Well, you have guys come in from school -- they would be there, let's say, Monday morning. The next day they are not there -- you know you don't see them any more, but if you go out you may see them on a job.

The reason I know they are collegekids, because I talked to quite a few of them on the jobs, and on certain jobs -- let's say the job is not finished before school starts, a lot of them say they have to go back to school and they are laid off.

Q Did you ever see them at the end of the summer?

A No.

Q Are these men young or old?

A About my age -- about 23, 24, 25, 26.

Q Are they white or black?

A Most of the kids from school are white -- as a matter of fact all of them is white.

Q Have any of these men ever walked in the union with anybody else -- come into the union hall with anybody else, or have they come in alone?

A At the new union hall I have seen once, let's say where a man -- maybe a union man brought his son in to get him in. I have seen a man where he talked to Danny Murphy, and he told Danny Murphy that he wanted to get his son in, and Danny said he have to fill out an application, and Danny said he had to go out to the school.

Q Did you ever see that man again?

A No.

Q Mr. McQueen, the practices and experiences that you have just described for us, have they had any affect on your personal life?

A Yes, because like -- actually I really can't make no future plans. Let's say for my family or anything, I can't foresee things that I want to get for my family because

I can't foresee how long a job will last. Normally a job will not last -- the longest I have been on the job is seven months. A seven month job you can't really plan something for next year, or if you want to buy something that you can't pay cash for it but you know you have money coming in every week. Right now I want to live in a private house but I know I won't be able to afford a mortgage on a house. I don't want to get into something and lose it later -- do you know what I mean?

Q Are there jobs that last longer than 7 months in the union?

A There are some jobs that last three or four years-- that's the type I like to look for. I know I can go out the next day and the next day and the next day and don't get worried about being laid off tomorrow.

MR. DEVORKIN: I have nothing further, your Honor.

CROSS-EXAMINATION

BY MR. KENNEDY:

Q Mr. McQueen, you told us that you were an oiler on a job for Vacar?

A Vacar.

Q You were working with an engineer at that time, sir?

A Yes.

Q What union did you belong to?

A Local 15.

Q Right. Was he white or black, sir?

A White.

Q Did he help you learn to operate that machine?

A No.

Q He didn't?

A No.

Q Did he let you operate it, sir?

A Yes.

Q And under what circumstances? Did you ask him if you could operate it?

A Yes.

Q And did he say "yes"?

A At that time, yes.

Q Yes. And how long did you operate that machine?

A About 3 days, but just during lunch -- just half an hour a day.

Q Now there came a time when you had a conversation with him about not operating that machine, is that correct?

A I don't understand you.

Q All right. Did you continue to operate the machine during your lunch hour?

A No.

Q Why not?

A Because he told me that Bobby Vacar, the owner of the equipment, said he didn't want me back in the seat.

Q Did you go to see Mr. Vacar?

A Did I go to see Mr. Vacar?

Q Yes.

A Not on this job.

Q But after the engineer told you that Mr. Vacar said you could not longer operate it, did you go to see him about that?

A Not on this job, no.

Q Did you ever go to see him about that particular subject?

3-3 A Well, like I say, I worked for Vacar on three different jobs.

Q Right.

A The seccnd job I was on a truck crane, and I asked the engineer to go speak to Bobby for me, because I figured him being white and me being black he would have a little more influence.

Q Right.

A He did, but the next day --

Q Hold it.

MR. DEVORKIN: I object, your Honor. The witness should be able to answer his question.

MR. KENNEDY: No, no. The witness has gone beyond the question, your Honor.

THE COURT: Questions and answers are supposed to be an orderly procedure. If you begin a question and then have an answer and then another question, it doesn't make for orderly procedure.

MR. DEVORKIN: I agree but Mr. Kennedy asked him what did he do and he was explaining what he did.

MR. KENNEDY: Please don't characterize my questions.

THE COURT: Let us go ahead.

BY MR. KENNEDY:

Q Mr. McQueen, there came a time on one of the other jobs that you asked a Local 14 man to speak to the owner about operating the new machine, is that correct?

A Yes.

Q Was the operator white or black?

A He was white.

Q Did he go to see the owner?

A Yes.

Q How do you know that, sir?

A Because the next day he told me that he spoke to Bobby Vacar and Vacar said he still didn't want me in the seat. He said no oiler runs his machine -- but that is not true.

Q Why?

A Because I have seen quite a few guys running the machine.

Q Did you ever see the owner about operating during your lunch hour or --

A No.

Q -- after work?

A No.

Q You did not?

A No.

Q Did you complain to your union?

A Did I complain to the union?

Q Yes.

A Like I said before, I didn't have -- how do I know who to complain to.

Q All I asked you --

A No, I didn't complain.

Q That is all I asked you.

A No.

Q How many times have you worked with a Local 14 man?

A Let's say a matter of 13 or 14 times.

Q Have you ever had any problems with him?

A No.

Q Have they treated you courteously?

A Not all of them, but some of them have, yes.

Q Do you think that they have permitted you to operate the machines wherever possible?

A No.

Q You don't.

A No.

Q They have refused to let you operate, is that what you are telling me?

A They have refused to let me run the machine?

Q Yes, sir.

A Okay. When I was in the Bronx, in 161st Street, he told me "No".

I am not going to say "refused" but he said "no, I can't let you run the machine".

Q Who was the operator?

A I can't remember his name but it was on 161st Street and the Grand Concourse -- a long boom.

Q It was what type of equipment?

A A long boom truck crane.

Q How long was the boom?

A I think it was 250.

Q Had you ever operated a long boom crane in your life?

A No. But from all I heard or from --

Q I say, have you ever in your life operated one?

A No, no.

Q Was it the first day on the job that you asked him to operate it?

A I was on the job for about a week and a half before I could run the machine.

Q How many times did you ask the operator to run the machine, sir?

A I asked the person one time. If he says "no" I am not going to beg him.

Q Do you know Earl Fulcher?

A No, I don't know him.

Q Do you know Eugene Howard?

A No.

Q Have you ever seen any black operating engineers for Local 14?

A Yes.

Q And you are telling us that you never saw a black master mechanic?

A I never seen a black master mechanic, no.

Q How many jobs have you been on since 1972?

A Since '72?

Q Yes.

A I have been on quite a few jobs -- certain jobs you know that you don't have a master mechanic.

Q I know; that is what I am getting at, Mr. McQueen. How many jobs have you been on where there was a master mechanic?

A Four or five.

MR. KENNEDY: I have no further questions.

CROSS-EXAMINATION

xxx

BY MR. BRADY:

Q Mr. McQueen, when did you start your training in the Job Corps.?

A The year,'65.

Q At that time did you have any experience in operating heavy construction equipment?

A No.

Q Then explain to me what your training consisted of in the Job Corps.?

A We started when I got into the engineers -- we started off on basic tractor operation, where you learn the fundamentals of a tractor and how to drive a tractor.

From that you went to the dozer. You start with the HD-4. We went from the HD-4 all the way up to the HD-7.

Q There came a time when you said you got to operate this equipment?

A Yes.

Q And you said that was about a month before you graduated?

A A month?

Q A month?

A No, I am sorry. You have to operate a full year before you graduated. You got to be on certain machines a certain number of hours. You can't work on it for one month.

Q How much time did you spend on the dozers?

A Let me see -- we started with the dozer about 3 to 4 months.

Q 3 or 4 months, every day?

A Yes.

Q Operating every day for three or four months?

A Yes.

Q What kind of work were you doing?

A Like I said, we built a park once. We worked on the roadways. We worked with the City of Kalamazoo on those machines.

Q For three or four months?

A Different machines.

Q What other machines did you operate?

A At times a loader, a backhoe.

Q And how much time did you have on the backhoe?

A About two months, two and a half months.

Q Did you become proficient in the operation of a backhoe?

A I feel I became proficient, good enough to go on a job.

Q Good enough to operate in the construction field?

A Yes.

Q On a backhoe?

A Yes.

Q You graduated in 1966, is that so?

A Yes.

Q And then you came to New York but you couldn't get placed in the field?

A Right.

Q So at that time you joined the Army?

A Yes.

Q And you became a supply parts specialist?

A Engineers Supply Parts Specialist.

Q Tell me, did you go right into the Engineer Corps as soon as you got in the Army?

A Well, you go through your basic training first, then you go to AIT.

Q How long was AIT?

A 10 weeks.

Q Two weeks?

A Ten weeks.

Q What did you do in AIT?

A I was working -- class work.

Q Did you operate machines at all?

A No.

Q Then you graduated as a Supply Parts Specialist?

A Yes.

Q Did the Army give you any aptitude test before they placed you on a job?

A Aptitude test?

Q Aptitude test, yes.

A You got it before you go in the service.

Q You did get it before you went in the service?

A Yes.

Q Did you tell them you wanted to be a machine equipment operator?

3-4 A Well, I enlisted in the Army to be an Airborne Medic.

Q You did not tell them you wanted to be an operator?

A No, but that is what they put me in because of my score.

Q A clerk?

A Yes.

Q Then you said you went overseas, is that so?

A Yes.

Q And you were still a Supply Parts Specialist, is that so?

A Yes.

Q Did you operate equipment then?

A I worked with the engineers. We was in the combat group -- we supported other infantry over there.

Q Did you operate equipment?

A Yes.

Q When was that?

A It wasn't my job to operate those machines.

Q Right. So when was it done?

A During the day. We have a lot of free time as a clerk.

Q Oh, I see. You were supporting all these combat troops and you had a lot of time?

A Vietnam is not like World War II.

Q I guess it is not.

A It's not.

MR. DEVORKIN: I object to that.

MR. BRADY: What do you object to -- the answer?

THE COURT: I don't understand that.

MR. DEVORKIN: I am objecting to Mr. Brady's

characterization of the witness' statement.

Q You had a lot of free time?

A Yes.

Q How many hours a day did you operate equipment, Mr. McQueen?

A Well, like I said, it wasn't my job to operate the equipment but if I got a chance I got off two hours I ran it for two hours, or I ran it for three hours. If I have no hours I don't run it at all.

Q This was the year you were over there?

A Yes.

Q How much time a month did you operate it?

A You can't say a lot, because, like I say, when you got free time you do it.

Q So it is not a lot?

A No.

Q So when you came out of the Army in 1971 you actually had not had any training on that equipment since 1966, isn't that so?

A Right.

Q And would you say, Mr. McQueen, that at that time you were in need of a little training?

A Would I say that?

Q Yes.

A To run a machine that I have been on before, it takes a matter of, let's say, half an hour to get used to the machine, yes.

Q So you did not need any training in 1971, is that right?

A No, I don't think so.

Q You did not need any training.

A No.

Q After five years' layoff you did not think you need it?

A No, I have been on jobs with engineers --

Q Just restrict your answers to my questions, if you will.

A Okay.

Q Do you remember the date that you went down to the union -- Local 15?

A I don't remember the exact date but I can tell you the year and about what time of year it was.

Q It was July 1971, wasn't it?

A July '71.

Q Yes.

A Somewhere around that time -- yes, June or July.

Q It was July 15, 1971, wasn't it?

A I am not sure of the date.

Q Is that about right?

A Somewhere around there, right.

Q And isn't it true that on July 17, two days later, you were admitted to the Apprentice Training School of Local 15?

A Because when I first came to that union hall --

Q Isn't that true?

A No.

Q You did not go in the training school?

A He didn't tell me that I was to continue going out there -- I didn't admit to anything.

Q Are you telling me that you went out there one day?

A I went out there one day, after I got kicked out of the union, I stopped going down there.

Q After you got kicked out of the union?

A Yes.

Q What year was that?

A That was '72.

Q And you weren't out in the school in 1971?

A I went out there just once.

Q Just once?

A Once.

Q You weren't there in July 1971?

A July 1971, not that I can recall.

Q Did you file an application?

A That's -- can I explain the whole thing to you?

Q I am asking you a question, Mr. McQueen. Did you file an application?

A I don't remember. If I can't explain the whole thing, I don't remember.

Q Well you can answer my questions.

You say you don't remember if you filled out an application?

A I don't remember, no.

Q Did you fill out a questionnaire?

A I remember bringing some photos out -- they told me to bring the photos to the union school.

Q When was that?

A I remember exactly when I brought those.

Q Was that the first day you went out to the school?

A No.

Q So you were there another time, weren't you?

A I told you I came back.

Q When? In 1972 you came back?

A After they kicked me out, when I got kicked out.

Q So you did not leave any photos out there in July of 1971, is that so?

A That depends on what time I got kicked out of the

union school.

Q You were kicked out of the union?

A Yes.

Q The union?

A Yes.

Q You were kicked out of the union, Mr. McQueen?

A Yes.

Q And you were kicked out of the school?

A I was kicked out of both. I couldn't submit the morning book.

Q When did you become a member of the union?

A I wasn't a member. I was a permit.

Q How then can you be kicked out of the union if you weren't a member?

A I wasn't able to work on construction.

Q Isn't it true you were actually terminated from school?

A Excuse me.

Q You were terminated from school?

A I was terminated from both the union and school.

Q Because you did not attend classes?

A No, I hadn't attended classes.

Q Did you fill out the apprenticeship and retraining questionnaire?

A Yes, after they let me come back into the school, back into the union.

Q You went back to the school?

A Yes.

Q When was that?

A Shortly after I went back, the following week -- no, I came back into the local, after I spoke to Maguire, Senior.

Q And did you attend this school?

A I attended school maybe four times, yes.

Q Why didn't you attend more than four times?

A Because at that time I felt that I could run a backhoe, a loader and a dozer.

Q Oh, I see. So what year was this?

A That was in '72, I guess.

Q Mr. McQueen, I am going to show you a questionnaire and ask you if you recognize this --

MR. BRADY: First will you please mark this.

xxx (Marked Defendant Local 15 Exhibit B for identification.)

(Court hands to the witness to examine.)

BY MR. BRADY:

Q Is that your handwriting on that?

A That is my handwriting.

Q Do you recall filling that out?

A Uh-huh.

Q When did you fill it out?

A It says on here June 5, 1971.

Q And thereafter in July you began school, isn't that so?

A In July?

Q Yes.

A Well this had to be after the time I was kicked out.

Q In 1971 you got kicked out. I thought you got out of the Army in 1971?

A I got out of the Army in 1971.

Q What month in 1971 did you get out of the Army?

A I got out in April.

3-5 Q Oh, in April.

A Yes.

Q And then you were kicked out of the union two months later?

A I wasn't that long affiliated with the union before I got kicked out.

Q You testified it was July of 1971 when you first went to the union?

A Right.

Q Is that when you got kicked out of the union?

A I got kicked out of the union -- I wasn't in the union that long before I was kicked out, so it could have been in '71.

MR. BRADY: I would like to have that in evidence, your Honor.

MR. DEVORKIN: I would like to see it first.

(Handed to Mr. Devorkin by the Clerk.)

MR. DEVORKIN: May I have a small voir dire, your Honor?

THE COURT: Very small.

VOIR DIRE EXAMINATION

BY MR. DEVORKIN:

Q Mr. McQueen, I show you Defendant Local Exhibit 15B for identification and I ask you to examine the date that is written on the front (handing).

A (After examining) I don't remember writing the date on the front. I don't remember writing it. This is my handwriting here (indicating).

Q Would you look at the -- do you remember putting that date in there?

A I remember putting no date in the front, no.

Q Is that your handwriting?

A That is not my handwriting, no.

MR. DEVORKIN: I agree to its admission, your

Honor, except for the date, because the date is in the different color ink.

THE COURT: I will take that document with the notation that he did not put the date on. Received in evidence.

(Defendant Local 15 Exhibit B now marked in evidence.)

xxx

BY MR. BRADY:

Q Mr. McQueen, before you filled that in, I presume you read the questionnaire, did you?

A I read it but it didn't say what it was for.

Q What did you think it was for, Mr. McQueen?

A What did I think it was for?

Q Yes.

A At that time I thought it was just trying to get into the union.

Q I see.

A I thought they needed a record for each man in the union.

Q Did you tell you to bring photographs back to the school?

A Yes -- no, I brought my photographs to the union hall.

Q To the union hall?

A Yes, on 14th Street.

Q Who did you give it to on 14th Street?

A I think I brought it to Danny Murphy and he told me to bring it out to the school.

T4

Q You brought them out to the school?

A Yes.

Q Did you see other people out at the school?

A Quite a few people.

Q What were they doing out there, Mr. McQueen?

A At that time they weren't doing anything because the school just got ready to get off the ground, so they weren't doing anything. A lot of absences, a lot of guys didn't know they had to go to school and if they missed five times -- they started that later on.

Q When did they start the rule later on that you can't have more than five absences?

A I don't know really when they started. But when I got this letter I knew about it.

Q You didn't know before?

A No.

Q What were all the trainees doing at the school, just standing around?

A At that time there wasn't trainees, there were a lot of book men.

Q How do you know they were book men?

A How do I know they were book men? Because they were book men.

Q Did you talk to the people?

A I didn't speak to everyone, but I know some are book men.

Q Had you spoken to any book men?

A I can't really say a man was a book man but I had seen his book.

Q You want to withdraw your statement just made about knowing that there are all book men?

A I didn't say they were all book men. I wasn't a book man.

Q I must have misunderstood you. Who were the people out at the school?

A Members of the union.

Q How do you know they were members of the union?

A People at the school, there were a whole lot of people standing there. I don't know who they were.

Q Do you know if they were members or apprentices?

A I don't know.

Q Were some of them black?

A They were mostly black, all black. At that time I went to the school.

Q All black?

A Right.

Q What were they doing, just standing around?

A When I first went to the school they didn't have

as many machines.

Q Did you have some machines?

A Yes.

Q Did you see any of these black men operate the machines?

A Yes.

Q Did you operate the machines?

A Yes.

Q Were you trained on a machine?

A I didn't have any instructor with me when I was on the machine. I was with another guy, a trainee.

Q Do you know if he was a trainee?

A Yes.

Q Was he black?

A Yes, Puerto Rican.

Q Did you talk to him about what he was doing out there?

A We talked about a lot of things, about working, about going other places and getting on machines.

Q Did you talk to him about what he was doing out at the school?

A No.

Q No?

A No.

Q How long did you spend with him out there?

A Half a day.

Q A half-day?

A At that time it was a half-day.

Q You didn't talk about what you were doing on the machine to the man next to you?

A No, because he was busy doing what he was doing and I was doing what I was doing.

Q What did you think he was doing?

A I know --

Q What?

A He was learning the machine. I guess he was learning the machine.

Q Were you learning the machine?

A No, I felt I learned the machine already.

Q Did someone tell you that?

A Yes, I graduated from the job corps, they said I was an operating engineer.

Q Were there other black men operating on the machines out there?

A Quite a few.

Q Did you talk to them?

A No, I didn't get a chance to speak to everybody out there, no.

Q What did you think they were doing out there?

A At that time they didn't have that many machines.

Q What did you think they were doing out there?

A Waiting their turn to get on the machine.

Q For what purpose?

A Let us say to practice.

Q I see. To learn a skill?

A No, practice, because a lot of them knew how to run the machine.

Q How do you know they knew?

A Because I had seen them operate the machines.

Q Did they talk to you and tell you they knew how to run that machine?

A Yes.

Q I thought you said you didn't speak to them?

A I spoke to some, not to everybody.

Q More than this one fellow, you spoke with the others? How many others did you speak to?

A I can't give you numbers. Let us say several.

Q Several?

A I can't give an exact number.

Q Did they tell you what they were doing there?

A The conversation that I had was with other black men and it wasn't about that equipment.

Q Was it about something else?

A It wasn't about --

Q You just happened to bump into him on the machine?

A The blacks always stay together and they talk about certain things.

Q What do they talk about?

A Why they are not getting work and why they have to sit in the hall and come out to the school every Saturday and go back to the hall Monday morning and sit in the hall.

Q Did you say --

MR. DEVORKIN: The witness is answering the question about what blacks talk about.

Q Go ahead.

THE COURT: There is no need to shout, everybody will get a chance. Have you finished?

THE WITNESS: I finished.

Q They complained to you about having to go to the school every Saturday?

A They didn't complain to me -- among ourselves. I was complaining myself.

Q About what, about having to go out to school?

A I felt why should I go out to school and get up on one machine and we have to go back to the hall Monday morning and I sit two or three weeks and don't get a job.

Q I thought you testified when Mr. Devorkin asked you that you didn't know you had to go back there every Saturday?

A After they kicked me out I came to the school, after they kicked me out.

Q I thought you were talking about the first day?

A Talking about the first day? I didn't see anybody except the foreman. I didn't speak to anybody except the foreman, that is all I spoke to.

Q Did you come back during the month of July to the school?

A I can't recall.

Q Isn't it true you came back the very next Saturday?

A I don't recall.

Q Is it possible you did?

A Is it possible? I doubt it. I don't think so.

Q How about the Saturday after that?

A I can't recall. Not in July.

Q You didn't come back at all?

A I can't recall if I went back to school the first time I went to the union.

Q Did there come a time when you received a letter advising you of your absences?

A Yes.

Q Is this the letter you received?

xx (Defendant Local 15 Exhibit C marked for identification.)

A I didn't receive this letter, no.

Q You didn't receive that letter?

A No.

Q What letter did you receive?

A I received a Registered letter from the union saying that I had missed five consecutive school days and that I was dismissed. That is the only letter I received.

I didn't receive this letter with all these dates.

Q What dates did you receive the letter?

A I didn't have these dates, it just said five consecutive times. It didn't have these dates.

Q What letter?

A I received a Registered letter from the union saying I was dismissed from the school because I missed five consecutive times at the school.

I didn't receive a letter with these dates on it, no.

Q What month did you receive that letter?

A I don't know what month, but during the time I was -- let me see. I can't remember what month I received

the letter.

Q In 1972?

A I am not sure. I think the beginning of 1972 or the end of 1971.

Q March of 1972?

A I can't remember what month it was, but I know I received a letter from the -- I think it was in 1971 because I didn't go to the Bronx until 1972.

Q How do you know you got the letter in the Bronx?

A I received the letter in Queens. At that time I lived in Queens. I didn't move to the Bronx until 1972.

Q What is the address on the letter you have there?

A This has an address in Queens.

MR. BRADY: I offer this in evidence.

MR. DEVORKIN: I object, the man said he didn't receive this letter and there is no foundation for it.

THE COURT: I will not permit this to go into the record but the union can show what they sent. The union can show what their records indicate.

Q But it is your testimony, Mr. McQueen, that you first went out to the school but you didn't know that you had to return for training?

A No, I didn't know.

Q You didn't know that you had to return every

Saturday?

A Because the job I was on in the Bronx, I was there two and a half months. We worked a lot of overtime on Saturdays. The foreman kept telling me that Danny Murphy, he saw Danny Murphy at the union meeting and he asked him when I was going back to the school.

Q What did you say?

A I told him what school, I can't go to no school because I was working on Saturdays. I wasn't going to give up a Saturday's pay.

I asked what school, because he didn't tell me I had to go to no school because I am not going to give up a Saturday's pay.

Q Did you call Danny Murphy and ask him about it?

A I spoke to Danny, yes, once. I called him up that morning because the foreman told me to call Danny.

Q What did he say?

A I told Danny I was working on weekends and he asked me what I was doing and I said I was on well points. He said, "Maybe when you finish we will put you in charge of some wellpoints because we will have some well points out there." But that is when I received the letter saying that I was dismissed from the school during that time.

Q When you spoke to Danny Murphy did you ask him

about this requirement of attending school every Saturday?

A No, I don't remember that I said that to him but I explained I was working on Saturdays.

Q Why did you explain working Saturdays to him?

A Because I didn't know the reason the foreman kept telling me because Danny wanted me to come out to the school.

Q How often?

A Only once. He went to a meeting once.

Q What month was this?

A I really can't remember what month it was.

Q Was it in 1971 or 1972?

A I am trying to remember. I think it was the end of 1971 or the beginning of 1972. I forget what month. I was in the job in the Bronx.

Q Prior to this time you had only been at the school one time?

A Yes. That is when I received the letter saying I missed five consecutive times and I was dismissed.

Q So did you attend school in July?

A I can't remember returning to school.

Q 1971?

A 1971? I returned once when I first came to the union hall.

Q Did you attend the school at any time during September of 1971?

A I really don't recall returning to that school until I came back in the union after that job. I went back out to the school but I don't recall going to that school before they kicked me out.

Q Did you attend the school in October of 1971?

A October?

THE COURT: I think he said he didn't recall doing that.

Q What is the time that you recall being kicked out, is that in 1971?

A I think that was either the end of 1971 or the beginning of 1972, close to Christmastime. Because that job up in the Bronx ended around before Christmas, about the 23rd of December.

Q Do you have a copy of the letter you received?

A From where?

Q From the union.

A No, I don't have a copy of it, no.

Q Is this your signature, Mr. McQueen?

xx (Defendant Local 15 Exhibit D marked for identification.)

A Yes, this is my signature.

MR. BRADY: I offer this in evidence, your Honor.

MR. DEVORKIN: May I see it?

I have no objection.

THE COURT: Received in evidence.

xx (Defendant Local 15 Exhibit D for identification received in evidence.)

Q Isn't that the receipt that you were talking about before?

A I don't think that is the same receipt because I got quite a few registered letters since then. I don't know.

Q From the union?

A No.

Q After you were terminated from the apprentice school were you still referred to work by the union?

A No, because they -- the following Monday morning I came down and brought the letter to Danny Murphy and he told me that I couldn't shape at the hall and that I was kicked out of the school because I had missed five consecutive times.

I explained to -- he knew that I worked in the Bronx also too and on weekends. I wouldn't give up no weekend job. If I knew I had to go to that school, I told him that I

was working weekends.

Q As a matter of fact, were there times when you called the school and got excused absences?

A No.

Q No?

A No. I never called the union school because I didn't know the number.

Q Did you have any excused absences from the school?

A From that school? I go back a little bit. At the time I called Danny I told him I was working on Saturdays. If that is an excuse, then that is the excuse.

I told him I couldn't go to the school, I was working on Saturdays.

Q You told him that you couldn't go to the school for this reason?

A Yes.

Q So you knew that you had to go to school?

A That is when the foreman told me Danny, at the union meeting, asked him why I wasn't going to school. I said I didn't know I had to go to the school.

Q Did he tell you, yes, you did have to go to school?

A I can't recall what he told me, whether he told me I had to go. But we were really talking about the job.

Q You weren't talking about the school?

A That is the reason I called him, to find out why he told the foreman to ask me.

Q What did he say?

A Not word for word,but in roundabout I think I explained to him why, I didn't know I had to go to school.

I didn't know I had to go to school and said something about Saturdays and I told him I was working Saturdays and working the next three or four Saturdays before the job was over.

Q What did he say?

A He asked me what I was working on, what type of work I was on up in the Bronx, that was a big shaft, big well points, and I explained what type.

He said when the job is over we probably will have well points starting up at the school and maybe we will put you in charge of well points again.

Q Did he say anything about five absences and being excused from school?

A No, I didn't know about that until I received the letter saying I missed five times.

Q Did he say to you that you were required to go to

school every Saturday as an apprentice?

A On the telephone call? I don't think so.

Q Did he ever say that to you?

A Like I say, when I first went to this school it was like first starting up, so they were having a lot of absentees. They didn't have no mandatory five times missed you are out.

But they did start that up when I came back, they started that up and at that time when I was going to school he told me that, but me and him had a confrontation, it was after I got kicked out and I am back at the school again.

Q What date is that?

A I really don't know.

Q About what date was it?

A About, about June some time during --

Q June of what year?

A 1972, I guess, about 1972.

Q In June, 1972, you were back in school?

A Yes, I started going back to school.

Q How long did you stay in the school this time?

A I went to class four times.

Q But at that time you knew there was a mandatory regulation about five absences, isn't that so?

A Yes.

Q Were you absentmore than five times?

A I really just stopped going --

Q Excuse me, Mr. McQueen. Were you absent more than five times?

A Well, like I say, I stopped going really.

THE COURT: We will take a short recess.

(Recess.)

Q Mr. McQueen, there came a time when you went to work in the Post Office?

A Yes.

Q When was that?

A During the winter of -- around October,maybe, 1971.

Q 1971?

A Let me see. No, that was 1972,about October of 1972.

Q Well, had you gotten any work from Local 15, say, in September of 1972?

A September?

Q Yes. If you can't recall --

MR. DEVORKIN: The witness didn't say that. He is trying to think.

Q Can you recall?

MR. DEVORKIN: Give him an opportunity to answer the question.

A I probably got a couple of days here and there.

Q Do you recall being sent to the Gangi Contracting Corporation of Brooklyn, New York?

A Gangi?

Q Yes.

A Not that I can recall, unless -- I remember getting sent to Brooklyn for one day.

Q Was that to operate a backhoe?

A No, one of the little bulldozers.

Q Were you ever sent to operate a backhoe?

A Yes.

Q Were you ever sent to Gangi to operate a backhoe?

A I can't remember the contractor that I got sent to on backhoe jobs.

Q Were you ever discharged from a job after operating a backhoe in a dangerous manner?

A No. I was sent on a job to run a backhoe in Brooklyn.

Q Yes.

A On this job they had about five laborers, all Italians, and you can't understand what they are saying.

Q What happened?

A This job was one day, it was supposed to be longer but it was one day.

Q For you it only lasted one day?

A For me?

Q Yes.

A They didn't say they were going to lay me off for my ability to run the backhoe. They weren't going to complete it. I never got laid off any job for the way I worked or greased any machine.

Q Were you operating the backhoe?

A Yes.

Q What was the trouble with the laborers?

A It wasn't a matter of trouble. They wanted me to place -- let me see.

First,I got the job, they wanted me to jump up on the machine and start to work it right away. Any time a man goes out from the union that I know of an a machine, He takes himself five or ten minutes to get familiar with the levers that you work, but they didn't want to give me this.

Q What time did you arrive at the job site?

A I can't remember.

Q Was it 8 o'clock that you got there?

A No, because I think I got sent out from the hall,

so I guess around, let us say, to Brooklyn to come from Queens, around 9 o'clock, quarter to 9, something like that.

Q What happened when they told you to get up on the machine and start operating? What happened?

A I wanted to practice up a little bit before I start anything.

Q What did they say to you?

A They didn't want me to do it.

Q Did you start right to work?

A Yes.

Q How many hours did you work the machine?

A A full day.

Q What was the problem with the laborers?

A The problem is that with me, I wanted to take a couple of minutes to get familiar with the levers and they didn't want me to do it.

Q Were the laborers telling you that?

A Yes.

Q Not the boss, the laborers?

A The boss? No, not the boss. I never -- let's say I don't know where the boss really came to me and said, "You can't run this machine."

Q The laborers were anxious to get working, isthat

it?

A I wouldn't say anxious. I wouldn't put it anxious, they were ready to start.

Q They wanted you to start so they could get to work?

A Right.

Q What kind of work were the laborers doing that they were so happy to go to work?

A We had to remove some plates that cover this ditch.

Q What were the laborers doing?

A They only had to hook up the plates so I can lift them up and pile them.

Q That is what they wanted you to do?

A Right.

Q You weren't digging at all?

A Not at that moment, no. It was already dug out, I just had to remove the plates over the hole.

Q You wanted awarm-up to lift those plates?

A Anybody going on a machine, you always prepare yourself before you start to work. Nobody jumps right on the machine and goes to work.

Q Were you sent tothis job from the union?

A Yes.

Q And this was after you were out of school, isn't that so?

A After I was out of school?

Q Yes.

A I think at that time I wasn't going to school any more at all.

Q After you were terminated from school you were still sent out to this job, isn't that so?

A Like I said, when I was terminated from school I was terminated from the union. The only time I came back to the union is when I spoke to Tommy McGuire, Sr. and he said hewould see what he could do for me. But I did go back on a dozer.

Q You didn't go back to school?

A No, I stopped going.

Q That was the second time?

A This is when I came back, yes.

Q How long did you work for the Post Office?

A About three months, not even three months, about two and a half months.

Q What months were they, Mr. McQueen?

A I worked in the Post Office I think up until March.

Q What year?

A 1972.

THE COURT: 1973?

A 1973.

Q Is that when you started working for Vacar?

A Yes.

Q Tell me, did you ever have any problem with Vacar Construction?

A Did I ever have any problem with Vacar Construction? I never had, let's say, a problem with the machine I am going out on. You are actually dealing with the engineer, not the men who work around the crane or the truck crane or the backhoe or whatever. I never had any problem with Vicar itself but I did complain to Vicar once about the way the man treated me and let's say being a man on the job. I didn't feel they treated me like a man and I spoke to them.

Q Did Vicar ever complain to you about something you were doing on the job?

A No.

Q Did they ever complain about your sleeping on the job?

A Me sleeping on the job?

Q Yes, you sleeping on the job.

A There is one thing about me when I go on a job,

I have to put out because I am black. I don't sleep on no job.

Q Are you saying they never complained about your sleeping in your car on the job?

A Never. I sat in my car, yes, but a lot of oilers do. Oilers sit in the cars because they don't have anything to do. If I have something to do I am there. They never complained about sleeping in my car. If they say I was sleeping, I wasn't.

Q Did they ever complain about your leaving the job early?

A Yes, they have.

Q How many times?

A Put it this way. They complained to me one time and that is it.

Q How many times did they complain?

A Vacar complained once.

Q Did you ever work for Thalle Construction Company?

A I really can't remember all the contractors I worked for.

Q Thalle Construction in August or July of 1973. Did you ever work for Thalle?

A It is possible. I don't remember all the con-

tractors.

Q Do you remember being laid off by Thalle?

A I remember being laid off by every contractor I worked for.

Q Do you ever remember being laid off because you were not satisfactory?

A Never. Never have I got laid off, not that they came to me and told me I am laid off because I can't do the job. Not once, no foreman, mechanic, super, no one ever came to me and said that"I am laying you off because you are incompetent on doing this job."

Q Did you ever work for Thalle when you left early two days in a row?

A Like I say, I don't really remember working for Thalle, whoever that is. I don't remember the contractors I worked for. I remember the latest.

Q By the way, what is your latest employment?

A Norman Construction over on College Point.

Q How long was that job?

A About three months.

Q Tell me, did you work during the winter, Mr. McQueen?

A Yes.

Q Where did you work?

A I worked with Vacar, subcontractor for Perini at 135th Street and the West Side Highway.

Q How long?

A About seven months.

Q Right through the winter?

A Yes.

Q That is a slow time in the business, isn't it?

A It depends.

Q You don't think the winter is aslow time in the construction business?

A At one time it was, now it is not, because you work all year-round.

Q Times are pretty good you think?

A Do I think times are pretty good? There is work.

Q How much did you earn in 1973?

A About $10,000.

Q About $10,000?

A Yes. I made about that much a year in the Army.

Q In the Army you made $10,000?

A About that, I was a Spec 4.

Q As I understand your complaint, one of the complaints is that you can't be sure of steady employment in the business, is that it?

A True.

MR. BRADY: I have no further questions.

MR. DEVORKIN: I have some redirect examination.

REDIRECT EXAMINATION

BY MR. DEVORKIN:

Q Mr. McQueen, in response to one of Mr. Brady's questions you said that some of the men on the job didn't treat you courteously?

A Right.

Q What do you mean by that?

A To me it seems to be belittling you. Let us say a laborer, he seems like he is better than me and especially if something goes wrong, it is my fault.

I was with Vacar on a truck crane. The truck crane caught a flat, they wanted to put it on me. The car gets a flat, what can I do about it?

When I go on a job as an oiler I grease that machine better I believe than anybody greases that machine.

The last job I was on this was a backhoe at College Point, the engineer told me, and I have heard this from lots of engineers, that I was one of the best oilers they have, one of the best.

This machine they had broke down quite a few times before I came there. Since I was there this machine

never broke down and is greased every morning, every morning, and not one fitting but all from the tracks up to the boom.

But, see, on a job, it isn't greasing certain fittings, but every day I grease the whole machine.

MR. KENNEDY: I move to strike out the witness's answer on the ground that it is not responsive to the question.

THE COURT: It is not responsive, but I will let it stand.

Q Mr. McQueen, do you ever seen men on jobs that aren't able to operate?

A I have seen men get wasted.

Q What do you mean wasted?

A Going to the gin mill, get wasted and can't run and he couldn't even drive himself. They had to get an oiler to drive him home. He was drunk.

Q Was he discharged?

A He wasn't discharged.

MR. KENNEDY: May we have an identification as to the job site and the union involved?

A This was on 161st Street --

Q Just answer my questions that I ask, all right?

THE COURT: He wasn't answering your question.

MR. DEVORKIN: I am sorry, your Honor.

THE COURT: He volunteered some information. I think he should testify.

Q Was this one of the men that wasn't qualified, able to operate this machine, who was drunk?

A At this stage I don't think he was able to operate, but I wasn't on the machine.

Q Was this an engineer?

A He was a 15 man, yes.

Q Do you know what job site it was?

A Yes, on 161st Street and the Concourse, in the Bronx.

Q Do you remember when this incident occurred?

A I think during December, 1972.

Q Do you recall the man's name?

A I can't recall his name, but I know him because I see him everyday; I saw him at the hall Monday. I don't know his name.

Q Was he discharged from this job that day when he was drunk?

A No.

Q Have you ever seen a black man drunk on a job the whole time you have been in the union?

A I can't recall seeing a black man drunk on the

job. They probably have been sometimes, but I never seen it.

Q Have there ever been occasions on the job where men came to the job to operate a particular machine and hadn't operated it before?

MR. BRADY: I object to that as improper re-direct examination.

THE COURT: No, we had a situation about where he wanted some time to warm up, five minutes or something. I will allow it.

Q Have there been times when men have come to the job and haven't been able to operate machines?

A I feel there have been times guys came to the job and I thought they didn't know what they were doing.

Q What happened when these men come to the job? What do they do, what does the foreman do?

A Sometimes --

MR. KENNEDY: Objection, your Honor. Will Mr. Devorkin specify the time and place and the union?

THE COURT: I assume that when you get an answer, and we haven't gotten an answer yet --

MR. KENNEDY: The witness answered yes and then started.

THE COURT: When and where and how?

THE WITNESS: Okay.

Q Wait for my question, Mr. McQueen.

You say you have seen men come to a job not able to operate a piece of machinery?

A Yes, don't know what the machine is.

Q How often have you seen that happen?

A I have seen it happen twice where a guy comes to the job and didn't know the machine but the guy reported to the master mechanic, if there was one, and he says, "I come about so-and-so, the backhoe or whatever it is", and if he never were on the backhoe the master mechanic will show him how to run it and it doesn't take that long.

Q Now, when is the last time you saw that happen, as best you can recall?

A I am trying to remember the job.

I think this job was over at the tunnel. The guy came to run a loader but he had never been on a loader. Is that the time? I really can't recall exactly the job, but I think at the tunnel on Welfare Island.

Q Do you remember which year?

A The year of -- the beginning of 1973.

Q Was the man white or black?

A He was white.

Q You mentioned another incident where this happened.

Do you remember when that was?

A I really can't recall the exact job and date, but I remember one job, the tunnel job on Welfare Island.

The guy really didn't know how to run the machine and they showed him what to do and like I said, it doesn't take that long.

Q Mr. Brady asked you some questions about a couple of occasions where you left the job early. Have you seen men leave jobs early?

A I have seen lots of people leave jobs early, yes.

Q Is there any particular category of operators that leave the job early or Local 15 men that leave jobs early?

A Once I was on a truck crane and I was switched to another machine and I changed engineers --

Q Answer my question. Do oilers leave early or operators leave early or who leaves early?

MR. BRADY: Objection to the leading.

THE COURT: He is not getting anything from the witness, so he has to ask.

A Sometimes you see the engineer may leave, sometimes the oiler may leave. The engineer leaves, the oiler will get on the machine. The oiler leaves --

Q What time of day have you seen oilers leave the job?

A As early as 9 o'clock.

Q In the morning?

A Yes.

Q Have you seen them come back that day?

A No. Sometimes they come back, sometimes they don't.

Q A white or black oiler?

A White oilers.

Q Do you know how many times the union sent you to a job as an operator as opposed to a maintenance person or an oiler?

A I think since I have been in the local I have been on three different machines.

Q Three times?

A That I operate, yes.

Q Do you know how people get experience on long boom cranes, about 250 feet?

A From the engineers tell me,each oiler or junior engineer is supposed to get two hours a day on each machine they are oiling on. That is how you get your practice.

Q Has anybody in the union, at any time, who is an official or a delegate in the union, told you whether or not veterans get preference in the union?

A No.

MR. DEVORKIN: I have nothing further.

RECROSS EXAMINATION

BY MR. BRADY:

Q Just on this last point, where was that job where the man left at 9 o'clock in the morning?

A Where was the job when he left at 9 o'clock in the morning?

Q Yes.

A 135th Street, 161st Street, the tunnel -- quite a few jobs.

Q The same man?

A These are different people.

Q How long did you work at 135th Street?

A About seven months.

Q The same man was on the job seven months?

A Yes.

Q What is his name?

A I am trying to think of his name. I don't know. While I am on the job I stay to myself. I don't want to get involved with a lot of people. I try to stick to myself and let me do my job and let the man do his. I don't recall his name.

Q Mr. McQueen, are you saying that you don't know his name?

A I don't recall his name. I know his name but I don't recall it at the moment.

Q Do you know the name of any other person that left early that you testified to?

A Do I know the name of any others? I can probably give you the first name but not the last.

Q You don't know their names?

MR. BRADY: I have no further questions.

THE COURT: You are excused.

(Witness excused.)

MR. DEVORKIN: Plaintiff calls Redus Shorter.

R E D U S S H O R T E R, called as a witness on behalf of the plaintiff, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DEVORKIN:

Q Mr. Shorter, how old are you?

A 28.

Q Where do you now live?

A Mississippi.

Q Are you testifying under subpoena today?

A What?

Q Are you testifying by subpoena today?

A Yes.

Q When was the first time that you have had any experience in the operating engineers trade?

A United States Army.

Q When did you first go into the Army?

A 1966.

Q Were you drafted or did you enlist?

A I was drafted.

Q And how old were you?

A 20.

Q I am sorry?

A 20.

Q And what kind of training did you get in the Army?

A Heavy equipment.

Q Where was your basic training?

A Fort Campbell, Kentucky.

Q And after basic training where were you assigned?

A Fort Benning, Georgia.

Q And what kind of work did you do at Fort Benning?

A I was heavy equipment operator and also instructor to different recruits.

Q Would you describe for us in detail the kind of machinery you operated as a heavy equipment operator?

A Road grader, D-8 dozer; PH cranes.

Q How long a boom was on that crane?

A 100.

Q Did you hoist with the crane or did you dig with the crane?

A Hoist.

Q Any other equipment?

A Yes; compressors, generators, rubber-tired loaders, et cetera.

Q I am sorry?

A Et cetera.

Q What would be the "et cetera"?

A Well, you have small machines like pumps, water purification pumps.

Q Did you ever operate a backhoe during that period of time?

A Yes, sir, I did.

Q How about a cherrypicker?

A Yes, I did.

Q Were you assigned to a particular company or division in the Army?

A We were assigned to NCO's administration for NCO's.

Q What was the name of your outfit?

A 72nd Engineers.

Q What was your daily routine in the 72nd Engineers?

A Training -- showing, demonstrating to OC'S -- Officer Candidates -- about heavy equipment, what it would do, what it would consist of.

Q Did you actually operate any of this equipment on projects?

A Yes.

Q What kind of projects?

A Well, we was making roads.

Q You were making roads. How frequently would you operate?

A Every day.

Q How did you actually learn to operate any particular piece of machinery?

A Well you had a man that -- you were put with a man and he would teach you how to run the machine, and he would run the machine for a week, you would watch him run; the next week you get on it. It doesn't take any time to take to learn that piece of equipment.

Q What was the most difficult piece of equipment you ran during that period of time?

A Road grader.

Q Why was it difficult?

A Well, you have to be on the money -- you have more levers to operate.

Q How long did that take you to be proficient, to become proficient on a road grader?

A About six months.

Q How long did it take you to become proficient on a cherrypicker?

A Cherrypicker?

Q Yes.

A About three weeks.

Q Before you operated a cherrypicker had you operated other machinery?

A Loaders, dozers.

Q Did they teach you anything about blueprints in the Army?

A Yes.

Q What did you learn about blueprints?

A Well, basically the fundamentals of them -- what prints mean, when you see a print, you look at the diagram to find out the dimensions of it, the scale, and knowing how to figure out what you have to do and how it has to be done.

Q You said there came a time when you were showing other people how to operate it?

A Yes, a couple of times I was teaching new recruits.

Q And how long were you at Fort Benning when that first occurred?

A I had been there about six weeks.

Q Did you ever leave Fort Benning to be assigned some-place else?

A Yes; Vietnam.

Q When was that?

A In 1967,

Q And where were you assigned in Vietnam?

A 570 Engineers.

Q Where in Vietnam was that?

A Nhatrang.

Q How long were you there?

A I was there in Nhatrang, but I had to go out, I was doing T.D.Y. out of there.

Q Where did you go?

A Cameron Bay, and other small attachments -- I can't recall the names of it, but other stations, for a month or two weeks, you know, out from Nhatrang. I don't remember the names.

Q Did you have occasion while you were in Vietnam to operate any heavy equipment?

A I don't understand you.

Q Did you have any occasion while you were in Vietnam to operate any heavy equipment?

A Did I have an occasion when I was --

Q Did you operate heavy equipment while you were in Vietnam?

A Yes, I did.

Q What did you do with that heavy equipment?

A Road work.

Q Which kind of heavy equipment was it?

A Graders, dozers and pans.

Q What is a pan?

A A dirt mover -- it passes the dirt back.

Q Is there another name for pan?

A There is two names -- pans, scrapers.

Q Did you ever teach other men in Vietnam like you did in Fort Benning?

A Yes, I did.

Q How to operate equipment?

A Yes.

Q When were you discharged from the Army?

A 1968.

Q What kind of discharge was that?

A Honorable.

Q Did you receive any medals while you were in the Army?

A Yes, I did.

Q What were those?

A Vietnam Medal.

Q Anything else?

A Conduct medal, and another one I can't recall the name of it.

Q After you were discharged from the Army did you come back to the States?

A Yes, I did.

Q Where -- what place did you come to?

A New York.

Q And what year was that?

A '68.

Q Do you remember which month?

A September.

Q Did you ever at that time seek to obtain work as an operating engineer?

A Yes.

Q What did you do?

A I went to unemployment.

Q In New York City?

A In New York City.

Q And what happened there?

A They sent me to the International Union of Operating Engineers.

Q Any local?

A There was no local at the time, no -- they didn't tell me about the local. They said the "International Union of Operating Engineers.

Q Where did you go?

A On 15 Street.

Q Which Local was that?

A Well it was 14 and 15 combined.

Q All right. And what did you do when you got there?

A I talked to a gentleman named John Murphy.

Q What did you say to him and what did he say to you?

A I gave him a letter that I had, a commendation

letter that I had received from the Army telling me that I was fully qualified for any type of construction work.

Q Mr. Shorter, I show you what has been marked as Plaintiff's Exhibit 71 for identification, and I ask you if you recognize that (handing)?

A Yes.

Q What is it?

A It is a letter of commendation.

Q Is that the letter that you showed Mr. Murphy?

A Yes, sir.

MR. DEVORKIN: I offer Plaintiff's Exhibit 71 in evidence (handing).

MR. KENNEDY: No objection.

MR. BRADY: No objection.

THE COURT: Received.

xxx (Plaintiff's Exhibit 71 marked in evidence.)

5-2 Q Tell us as best you remember exactly what you said to Mr. Murphy and what Mr. Murphy said to you.

A When I gave him the letter he said "What the hell is this?"

And I said, "It's a letter from the Army, a letter of commendation," and I said "I am looking for work, construction work", and he replied "There is no work in New York".

And I say "What you mean there is no work in New

York"?

And he say "You have to go to Chicago to some school" -- I don't recall --"to get into construction training there".

Q Did you say anything else?

A At this time, no.

Q Did he say anything else?

A He passed me the letter back and I left.

Q Where did you go next?

A I went back to Unemployment.

Q And what happened there?

A They sent me to the Joint Apprentice Program.

Q Did you tell them what had happened at the union?

A Yes, I did.

Q Did they say anything?

A Did I tell them what happened at the Unemployment?

Q Did you tell the unemployment people what had happened at the union?

A Yes.

Q And then they sent you to this Joint Apprentice Program?

A Yes.

Q What happened at the Joint Apprentice Program?

A I gave him the letter and he read it and he called

the union -- I don't know exactly who he was talking to but he called the union. They sent me back down there.

Q He sent you back down there?

A Yes.

Q Was that the same day or the next day or the next week? When was it?

A It could have been the same day -- I am not sure. It could have been the same day.

Q So what did you do?

A Went back and talked to a gentleman named Rogers.

Q What did you say to him and what did he say to you?

A I show him the letter that I had previously showed to Johnny Murphy, and he say -- and I say I showed this letter to Murphy, and he said "You was here before, then", and I said, "Yes", and he read the letter and when he read the letter he said, "Come here and sign this sheet", so I signed the sheet.

Q Did you tell Mr. Rogers anything about the kind of equipment you could operate?

A Yes.

Q All of the equipment?

A All of the equipment, yes. It wasn't classified every piece but I told him the names of the equipment -- most of the time I used the word "all".

Q Did you tell him anything about cranes?

A I just said "all" -- all the equipment.

Q And you signed that sheet?

A Yes.

Q And what happened?

A A couple of days later he sent me out on a job.

Q What kind of a job was it?

A It was a road grading job on the Whitestone Bridge.

Q And how long did that job last?

A Three days.

Q Do you remember the contractor?

A I am not sure -- it might have been Franco.

Q After the job ended what did you do next?

A I went back to the hall.

Q And what happened at the hall?

A I stayed there about three weeks after that and they sent me out to Slattery on a road grader.

Q How long did you work for Slattery?

A That must have been just about a month -- a month.

Q About a month?

A About a month.

Q And what did you do when that job was over?

A Went back to the hall.

Q And what happened at the hall?

A Then I was there anywhere from six to eight months.

Q Now before you -- let us take those first two jobs. Did anybody on those first two jobs say anything to you about getting a book?

A No.

Q Any officer or agent of the union say anything to you about getting a book?

A No, no agent, no.

Q Including when you were on that job for a month?

A No.

Q He did not say anything?

A He did not say anything.

Q Now you went back to the hall and you sat for how long?

A I mean about a month -- I am sorry, anywhere from six to eight months.

Q What do you mean, you sat on the bench?

A Well, you go down and you sit down. You sign a list and sit on the bench until someone come up and give you a slip.

Q Did you get any work during that six to eight months period?

A No.

Q Do you know whether any other people got work?

A Yes.

Q How do you know that?

A Because they was giving out slips and they was -- every day it was like guys going up and getting slips and leaving the union hall, and a lot of guys that was leaving come back and got a slip the next day or the next two days and going out again.

Q Did you see any black men down in the hall?

A I don't recall seeing any black at this time.

Q Now, did you ever complain about sitting in the hall that length of time?

A At one time, yes. After I went for a certain period --

Q How long a period?

A From six to eight months.

Q What did you do?

A Mr. Murphy went into the bathroom.

Q Which Mr. Murphy?

A Johnny -- and I went behind him, and I actually -- I asked "Why can't I get work? I have been sitting here for six to eight months", and he said "What do you want me to do, start hitting people on the head?"

At this time he gave me a slip.

Q Did he say anything to you?

A No. He -- I asked him -- he said "Here is a slip for one day".

Q Did you do anything --

A He was sort of like nervous I would say.

Q Did you do anything at the time besides talking to him?

A No. There was water in my eyes.

Q Did you have a family at that time?

A Yes, I did.

Q Who was in your family at that time?

A I have a wife and one daughter.

Q And what was the slip -- for what kind of a job?

A For Lanza Brothers, one day.

Q How do you know it was a one day job?

A He told me.

Q Who is "he"?

A Johnny Murphy.

Q What happened when you went out to Lanza?

A The guy liked the way I performed and he said I could stay with him.

Q How long did you stay with him?

A I stayed with him about two years.

Q At that time did you see any other black persons working for Lanza as engineers?

A White guys come up to me and say I was one of the first black guys --

MR. BRADY: I am going to object to that and move to strike as not responsive.

THE COURT: Strike it.

Q Did you see any black persons?

A No.

Q What kind of work were you doing for Lanza?

A Well, I was on the backhoe and a track machine.

Q What does a track machine do?

A You have different kinds -- you have a dozer track machine, you have a loader track machine.

Q Had you ever run those before?

A Yes, I have.

Q You say that you were there about two years?

A Yes.

Q Did you work steady for Lanza during the two years?

A Yes.

Q And is Lanza a contractor or does he rent, or what does he do?

A He is a contractor and he also rents out -- mostly he rents.

Q Did you work on the same job all the time?

A No.

Q What did you do?

A They put me on the job today, and when I finish I take my machine back to Lanza; they would book it out for another contractor. The next day -- in every job that I was booked out for, the next day or different times I would call Johnny Murphy and tell him where I was working.

Q How often would you call Johnny Murphy?

A Every time I changed jobs. I still was working for Lanza but I was working like for Muritone.

Q What did you tell Mr. Murphy when you called him?

A I told him I was at another location. I just told him I was at a different location each time that happened.

Q Did you call him at the union?

A Yes, and I --

Q Let me ask you, during the period of time of two years did you ever ask Mr. Murphy or any other business officer of the union for a book?

A I asked Johnny Murphy when could I get a book.

Q When was that, do you remember?

5-3 A I don't know exactly what years it was --

Q How long had you worked with Lanza when you called him?

A It was sometime in '69 -- it might have been in December of '69, something like that.

Q Do you remember when you actually began with Lanza?

A What?

Q Do you remember when you actually began working with Lanza, the month or the year?

A It was -- no, the year -- it seems like it was in '69, sometime in '69.

Q Early or late?

A Early, as I recall.

Q All right. What did you say to Johnny Murphy?

A I asked him could I get a book, is it possible to get a book.

Q And what did he say to you?

A He said I hadn't been in the union long enough.

A Did he say anything else?

A No.

Q Why were you calling Johnny Murphy when you changed job sites?

A I didn't have a book, and every job I went on I got a challenge--sometimes five or six times a day.

Q What do you mean "challenge"?

A Guys come up and asked me did I have a book?

Q And what did you do?

A I would say "no". And they would say "Come with

me".

We would go off the machine and we would go to the phone and he would call up the delegate.

Q And what happened?

A And after he called up and asked for the delegate, then he said to me, "Okay," or whatever the situation -- the guy that was talking to the delegate would say "it's all right."

Q And then you would go back to work?

A I would go back to work.

Q Now during those two years with Lanza did you see any other black men working for Lanza as engineers?

A No.

Q Have you even seen a successful challenge, that is, a man being challenged because he doesn't have a book and he cannot continue to operate the machinery?

A Yes.

Q When was that?

A I don't recall the dates but I have seen it.

Q Do you remember what years it might have been?

A It had to be in '69 or '70. Anyway, from the time I got into the union I have seen it happen.

Q A successful challenge?

A A successful challenge.

MR. KENNEDY: I do not know what a "successful challenge" is, your Honor.

THE COURT: The fellow who couldn't keep the job, I would say.

MR.KENNEDY: I assume that is what it is but I have not heard from Mr. Devorkin as to what he means by "a successful challenge".

THE COURT: I think we know what he is talking about.

Q You understand what "a successful challenge" means?

A Yes.

Q What happens when there is a successful challenge?

A The guy don't get the job -- period. The guy don't keep the job.

Q Now Mr. Shorter --

THE COURT: I assume these were white challengers that said that. You said you haven't seen black.

THE WITNESS: Yes, I have seen black challengers but he didn't have the book. He was a laborer and he didn't-- he got throwed off the job.

Q Mr. Shorter, you say you ended your work with Lanza after a couple of years?

A Yes.

Q After that what was your next job?

A After I left Lanza I bought my own equipment, my own backhoe.

Q You did that right after Lanza or did you work someone before that?

A It was right after Lanza.

Q Did you ever get your book in the union?

A Yes, I got my book.

Q When was that?

A After I went to the World Trade Center. Lanza had sent me on a backhoe.

Q Do you remember approximately when it was?

A That was in '70 -- May of '70.

Q And what kind of work did you do at the World Trade Center?

A I was there on a track backhoe, working a 450 loader.

Q How long did you work there?

A I was there about a month.

Q Anybody ever challenge you?

A I got challenged the first day I got on the job.

Q By whom?

A The master mech.

Q Do you remember his name?

A I am not sure -- it seems as though it was Dan -- I am not sure of the name.

Q What did he do?

A Well, he had looked at me operating. He had watched me operating down in the hole. He didn't see me when I come on the job, so he was standing there looking at me operating, and so he beckoned for me to come up, so I came up, and he said "I am the master mech". Once he says "master mech" I know that he was challenging me, and I say, "I don't have a book."

He say "You don't have a book?"

I say "No, I don't."

He say "Well, you shouldn't work here if you don't have a book. I never seen one operator as good as you, and I can't understand why you don't have a book."

And I say "Well, I have been calling the union and I never got a book".

So he said "Come on, come with me".

So I went to his office.

At this time he called Danny Murphy -- not Danny Murphy, I am sorry -- Johnny Murphy, and he said, "We have a gentleman here named Shorter and he is a hell of an operator. I can't understand why he doesn't have a book."

And at this time Johnny Murphy say to him -- whatever he say -- he say he been looking for me.

Q Do you know Johnny Murphy said that?

A That is what the guy said.

Q That is what the master mech said?

A What the master mech said to me.

Q What did you say?

A I says "Well, he have my home telephone number" -- as a matter of fact, I just got off the phone with him there because I had just come there that day--I just got off the phone with him, and he say he been looking for me, and I say -- the master mechanic say to me "Johnny Murphy say come on down to the hall and pick up your book."

Q Did you do that?

A Yes, I did.

Q Did you get your book?

A I got it six months after I paid for it.

Q You paid for it then?

A That night I was down -- Thursday night I was down there.

Q Did you ever get a health card or a welfare card from the union?

A Yes.

Q When did you get that?

A I am not positive but it was about six months after I got my union book.

Q Did you have a card before that?

A No, I didn't.

Q You mentioned something about your own equipment.

A Yes. That is when I left Lanza, I got a loan through the S.B.A. for the backhoe, truck and a trailer -- smaller.

Q Do you remember how much that loan was for?

A $12,000.

Q Do you know when this was, approximately?

A '71 -- '71 -- '70 or '71, I am not really sure.

Q Why did you get that backhoe?

A Well, I had been working for Lanza and I felt I could run my own backhoe, and if any contractor would see me run my backhoe maybe he would give me some work and maybe I would be more susceptible, you know, to get ahead if I have my own backhoe.

Q What did you do with your own backhoe?

A Well, I got --

Q I am sorry, I did not hear you.

A I got two jobs for it the whole time.

Q What was the first job?

A The first job was with Earth Bank Contractors.

Q Do you remember where that was?

A It was out in Long Island -- it was around Francis Lewis Boulevard -- 248th Street, somewhere around there.

Q Who was the contractor?

A Earth Bank. Earth Bank was doing the job.

5-4 Q How long did you work there with them?

A My machine was there two days, and it was demolished.

Q What do you mean "demolished"?

A The first day it was okay. There was three other machines there.

Q What kind of machines?

A Backhoes.

Q The same kind?

A They only had one there -- Earth Bank had a machine there. DeFillipo had a machine.

Q Was there any difference between your machine and the other machines?

A Bigger.

Q Any other difference?

A No.

Q You say your machine was "demolished". What do you mean?

A The second day that I was there the DeFillipo machine got laid off.

Q Was your machine laid off?

A No, mine machine was working. They laid that machine off and that same night my machine was demolished -- the glass was broken, all the dials; hoses was cut; sand

was put in the motor, in the oil.

Q Where was your machine parked that night?

A It was parked right besides the other two.

Q What did you do after your machine was demolished?

A When I come in I called the police.

Q Did you ever have it repaired?

A Yes, two days later.

Q How much did that cost?

A $75.

Q Did you pay it out of your own pocket?

A Yes.

Q Or did you have insurance?

A The insurance was $500 deductible, what I paid was out of my own pocket.

Q Did you ever get another job with that machine?

A Yes, I got another job -- a guy rented the machine and it was parked at a gas station.

Q When you say you rented the machine what do you mean by that?

A Another guy called me and wanted to rent my machine.

Q Were you the operator of it?

A No, I wasn't

Q Were you working?

A He said he had an operator.

Q Were you working at the time?

A No. I wasn't working at the time.

Q What would you actually do with your machine?

THE COURT: He rented it. He did not operate it.

A No, I wasn't operating at this particular time.

Q Were you doing anything else to find work besides renting your machine?

A After this first vandalism I was -- just out of work, I took my time. I didn't go to the hall at this particular time.

Q When you couldn't rent the machine out to make money that way, what did you do?

A After I couldn't rent the machine out, then I go back to the union hall for work.

Q You said your machine was rented to somebody else. When was that?

A It was in '72, I believe.

Q How long did that last?

A It lasted about two days. It was a total loss. They burned it up.

Q When was it burned up -- on the job?

A It was parked at a gas station.

Q During the day or night?

A Night -- Sunday night. And I got a call that

Monday morning saying my machine was -- they had burned it up.

Q Were there other machines there at the time?

A What?

Q Were there other machines parked with your machine?

A No, no machine -- just trucks.

Q Was anything else burned?

A No.

Q You said it was a total loss?

A Yes.

Q After you had that total loss what did you do next to get work?

A I went back to the hall.

Q This is in 1972. When was this?

A In '72.

Q What happened when you went back? By the way, did you still owe money on that machine?

A Yes, I did.

Q To whom?

A I still owed money.

Q To whom?

A S.B.A.

Q When you went back to the hall after that fire what happened in the hall?

A I got sent out once, one week, you know -- one day for a one-day standard or something.

Q How long did that go on?

A Well,that went on so long that I just called up the guys I had worked for and asked for work.

Q Did you ever get work that way?

A Yes.

Q When was that?

A When was it? '72,'73 and maybe '74.

Q What kind of a job was that?

A Construction -- backhoe, loader -- differenttypes of machines, different types of jobs mostly.

Q Did you ever ask a delegate for a job?

A Once I go in and I seen my list --I am sorry, I had a call and I used to call in, Johnny Murphy's house if I was out of work, and this particular day -- night -- it was about 10 oblock, and I had called his house at night and he told me it was a little late, you know, like he didn't appreciate my calling his house this late at night, so after that I stopped calling him.

Q Did you ever ask at the hall specifically for a job?

A No, I signed in and wait for the morning call.

Q Did you ever see other people do that?

A No. They have all been -- some of them I imagine-- some of them go up, I seen them talking to him from time to time.

THE COURT: We will adjourn until 2 o'clock.

THE CLERK: Court stands in recess until 2 o'clock.

(Recess.)

AFTERNOON SESSION

2.00 P.M.

REDUS SHORTER, JR., resumed.

DIRECT EXAMINATION CONTINUED

BY MR. DEVORKIN:

Q Mr. Shorter, I believe when we finished this morning I was asking you some questions about returning to the hall after those incidents with your machines.

Do you remember when that was, which year you returned to the hall?

A I had the machines, I still wasn't back to the hall. I tried to get work. I don't recall which year it was but it could have been either year from the time I had the machines.

Q What do you mean by either year?

A The year, every year, from 1970, I had the machines in 1970, 1971, '72, '73, '74.

Q After you stopped having your own machines and went back to the hall, what kind of work did you get, if any?

A One-day jobs, you know, jobs that the machine wouldn't work too good, make the machine work, you know, certified jobs. One-day jobs.

Q Do you have any idea why the jobs themselves,

the request for a man was short?

A I don't understand.

Q Do you have any idea why the man requested a one-day job, what kind of reasons could there be?

A I don't know why they would ask for one day. I mean, the contractor tells the delegate how many jobs they were and what kind they were.

Q Are there some jobs -- how long did this getting a job here and there continue?

A Ever since I was in the union.

Q Up to what time period did this continue?

A Until here lately when I stopped going and left New York.

Q When was that?

A I left last month, the 7th of this month.

Q You left the 7th of September?

A Yes.

Q Where did you go?

A Jackson, Mississippi.

Q Why did you go to Mississippi?

A Well, I couldn't get no work here and I went back to Jackson, Mississippi, to try to fulfill my needs, get a better job, try to get a better job, open up a restaurant.

Q Did you move there?

A Yes.

Q If you could get work here on jobs, would you have stayed?

A Yes, I would.

Q Are there some jobs that operating engineers get that are better than other jobs?

A Yes.

Q Which kind of jobs are better than others?

A Tit jobs, jobs that don't require you run the machine, don't require you even being there, just the machine being there, period. You get a lot of jobs like that.

Q What kind of jobs are those, what are some examples?

A Lots of guys, one was the World Trade Center, don't require no work.

Q Specifically which kind of jobs that an engineer did that were like that?

A It wasn't a specific job, just some jobs. I can't say a specific job.

Q What kinds of machinery?

A It could be any machine, tractor, loader, backhoe, just requires being there, cherrypicker.

Q Did you ever get any of those jobs?

A No.

Q Did you ever see any blacks on those jobs?

A No.

Q Are there any jobs which pay more than other jobs?

A Overtime, some jobs require overtime. You get more money.

Q Any particular jobs which tend to require overtime?

A Yes.

Q What kind of jobs would those be?

A It could be any number of ones.

Q Can you give me a couple of examples?

A The Trade Center again. There was a job in the upper Bronx, - big jobs.

Q I don't want to know where but the kind of work the man has to do on the job site that pays more. Which pieces of equipment or what kind of assignment?

Which are the jobs that pay more?

A It don't pay more, just more overtime.

Q Which jobs are those?

A Some jobs that you get on -- I can't say which job it is, but lots of jobs that pay, require a lot of overtime.

Q Have you ever gotten on a job like that?

A No, I haven't.

Q Did you try to get on a job like that on your own?

A I called up some guys that I worked with,yes.

Q What happened?

A Contractors -- sometimes, yes. I had a job in 40th Street that requires --

Q When was that?

A I forget what year it was.

Q What kind of equipment was it?

A A backhoe.

Q What were you doing?

A I was running the backhoe in 40th Street, it requires 24 hours.

Q What do you mean by requires 24 hours?

A 24 hours straight double time.

Q What did you do on that kind of job?

A I got it through -- I called up the guy.

Q Did you keep that job?

A It lasted two days, three days at the most.

Q Any reason why it lasted only two or three days?

A It was the -- there were two machines there and I was working one. I called the guy up and he

said they got a job that requires a lot of overtime, did I want it. I said sure. So I went down and the machine was there and I ran it for three days. They laid the machine off but didn't lay the other machine off.

Q Who was working the other machine?

A A white guy.

Q Older or young?

A Younger.

Q Did you have any conversation with any Local 15 business agent about that particular job?

A Yes, I did.

Q With whom?

A Tom McGuire, Jr.

Q What did you say and what did he say?

A At this time he said something about the guy running the machine there, he went and got the job himself without the stamps, making a lot of money, like $2200 a week.

Q How do you know he was making 2200 a week?

A I saw his check.

Q What did you say to Mr. McGuire?

A Well, then he had Rick Maroni, about the operator on the job wasn't picking up the stamps or wasn't getting the full money because he was required more but he was paid

or made another deal with the guy.

Q Try and answer my question. What did Mr. McGuire say to you -- was this on the phone or in person?

A On the phone. Then I had to go down and see him.

Q What did he say to you?

A He said that the guy undoubtedly, the guy must have gotten the job himself --

MR. BRADY: Objection. Is this what Mr. McGuire said?

THE WITNESS: Yes.

Q Mr. Shorter, will you answer my questions?

You are telling us what Mr. McGuire told you?

A Yes.

Q Continue, please.

A He said, the guy -- I don't know, he told me -- the guy must have gotten the job himself because he don't know nothing about this guy. He wasn't getting the stamps and must have made some kind of deal with this contractor that he was working on in the first place. Undoubtedly he didn't put him there.

Q What did you say to Mr. McGuire?

A I didn't say anything to him. He was just telling me.

Q Did he ask you how you got your job?

A Yes.

Q What specifically did he say?

A I said I was working for Nick Duranti and I called him up and he told me of a couple of days and I was down there for a couple of days.

Q What did Mr. McGuire say to you about your having the job, if anything?

A He didn't say anything.

Q Have you ever been taken off a job?

A Yes, I was.

Q When did that happen?

A 1973, I was taken off a job in the upper Bronx.

Q What kind of job was that?

A I was sent on maintenance for one day and when I got there they were using a new type of hydraulic lifter, the first kind of engine for the engineers, to get adjusted to it. It was just coming in and the guy said he wanted two guys and there was two guys there.

Q Who is "he"?

A The contractor. He said that he needed two men there to study, 12 hours apiece, which requires four hours double-time, and Tom McGuire came and told me that he was going to take us off the job and put an old timer on

the job.

Q When you say "us," who is "us"?

A Another guy with me.

Q Did that happen?

A Yes, it did.

Q Have you ever had a job on a grader?

A Yes.

Q Do grader operators make more money than any other operators?

A Well, contractors do give you an extra amount of dollars to run a grader because there are not too many that can run a grader.

Q What do you mean by give you extra money?

A Besides your pay he will pass you $75, $100 a week extra.

Q Have you ever been in a situation like that?

A I was sent out on a grader and --

Q When was that?

A I forget what month, but it was something, in 1969 I think it was. I am not sure about the year, but I was sent out on a grader for Gull Construction and the master mech -- I went up to the master mech and I said "I am here to run the grader."

He said, "You are not a grader operator."

I said, "I am a grader operator."

He said, "You are not, you can't work on this job with no grader."

So at this time he takes me into the office and at this time he had the check already made out and paid me off.

Q What do you mean the check made out?

A The check, written out and paid me off. I never got on the grader.

Q He paid you for the whole day?

A Right then he paid me.

Q What did you do?

A I was just disappointed and actually I was crying because he wouldn't let me run the grader.

Q Why did you want to run it?

A Because I am good on a grader.

Q Do you know how long that job was supposed to be?

A Well, it had just started, Bruckner Boulevard, and they wouldn't let me run it. So I went back to the hall and I told Woody Keenan what happened.

Q Who?

A Woody Keenan, the delegate.

Q What did you tell him?

A I told him what happened on the job with the

master mech, and he said a couple of curse words, and he sent me back the next day.

Q Do you have any idea why you were sent off the job?

A No. He just said I couldn't run it before he even let me get on it.

Q Did you tell Keenan why you were sent off the job?

A Just he shook his head, "I will send you back," and he did send me back.

Q What did you say?

A I went back, and he said, "Are you back again?"

I said, "Yes, I come back to run the grader."

He was like, frustrated, and he said something about Keenan. I forget what he said and I got on the grader again. I got on it this time, he let me get on, and I worked until one o'clock.

In the meantime, there was no blacks on this job so everybody, the other operators were looking at me like I committed a murder or something, like I couldn't -- I couldn't classify it, like they wouldn't talk to me, and I said, "I am Shorter," and they would like I was nobody, like "What are you doing here, you are not supposed to be on this."

Q Did you perform your job that morning?

A Yes.

Q What happened at one o'clock?

A He paid me off again and I left.

Q For the whole day?

A For the whole day.

Q Who paid you off?

A The contractor paid me, but the master mech always gave me the check.

Q Did he tell you anything about coming back again?

A No.

Q Did you ever go back to that job again?

A No, I didn't. I went to the hall and I toldthem, "Please don't send me no more because these engineers, it is unsafe to be around because you don't know what is going to happen to you, like being hurt or jumped on or beat up or something like that."

Q What did he say?

A He said okay.

Q Mr. Shorter, have you ever turned down a job that a union delegate has offered you?

A Turned down a job that a union delegate has offered me? I can't recall -- I can't recall having turned down a job, even if it was out of the way -- Staten Island.

Q Why wouldn't you turn down a job?

A Because I needed the work. If I was getting $75 a day, if it cost me $75 a week to go there, with the tolls and gas and food, it cost too much to go there so I have took jobs over there.

Q Have you ever seen any other black man turn down jobs in the union hall?

A No, I haven't.

Q Have you ever seen any other white men turn down jobs in the union hall?

A Yes.

Q Have you ever gone to union meetings?

A Yes.

Q Have you ever heard any discussions at union meetings about getting jobs?

A Discussions at union meetings about getting jobs?

Q Have you ever heard any business agents or officers talk about getting jobs in the industry?

A Well they have said it is out of order or wrong for

you to go find your own job.

Q Who did you hear say that?

A I heard the president, Tom Maguire, say that.

Q Did you hear anyone else say that?

A I can't recall -- at this time he was doing all the talking.

Q By the way, do you see Johnny Murphy in the courtroom?

A Yes.

Q Will you point him out for us.

A The second gentleman from this side -- the second gentleman from this side, (indicating).

MR. DEVORKIN: May the record reflect that he did point to Johnny Murphy.

Q Is Danny Murphy in the courtroom?

A Yes.

Q Where is he?

A The first one (indicating).

MR. DEVORKIN: May the record reflect that he pointed out Danny Murphy.

Q Mr. Shorter, have you ever seen men on the job not qualified to operate equipment?

A Yes.

Q Tell us when you have seen that?

A I was on a job in the Navy Yard and there was a lot of guys there that couldn't operate, didn't know what they was doing.

Q Did they stay on the job?

A They stayed on the job.

MR. KENNEDY: Your Honor, could he identify the operator and the union involved?

THE COURT: Yes.

Q Were these men white men?

A Yes, they were.

Q And when was this?

A This was in '71 -- I am not sure but I think '71.

Q Were they operating engineers?

A They had operating engineers and -- yes, 14 and 15.

Q What kind of work were they doing?

A One was on a crane and one was on a cherrypicker.

Q What do you mean when you say they couldn't operate the equipment?

A Well, somebody else had to operate for them and show them how to do it.

Q Was the man who couldn't operate it let go? Was he let go for the day?

A No.

Q Did you ever see a black person on the job who

couldn't operate a particular piece of machinery that he was asked to run?

A I never been on a job that a black man was on.

Q Have you ever complained toany union business officers or agents about any other things that you have told us about?

A No, I haven't.

Q Are there any reasons why you haven't complained?

A Yes.

Q What are those?

A Well, before the United States Government stepped into this, what happened, you know, between the union, I would dare not to say anything to a business agent, if I wasn't satisfied what I saw going on.

Q Why?

A Because I feel I wasn't getting work at this time and I figure if I said anything about it I would never get no work.

Q Mr. Shorter, have you ever had an occasion to discuss the reputation of any of the other local 14 or 15 business agents or officers with respect to their honesty, integrity, truthfulness or fairness?

A Yes.

Q About which officers have you had those discussions?

A Which officer?

Q About which of the officers have you had those discussions? Did you talk about all the officers?

A With the exception of Johnny Murphy -- I mean Danny Murphy, I am sorry.

Q And who have you had those discussions with?

A Fellow members over there, operating engineers.

Q Black or white members?

A Black.

Q Have you done that frequently or infrequently?

A Very frequently.

Q Pardon?

A Very frequently.

Q Do you have any opinion as to what those reputations are?

A Yes.

Q And what is that opinion?

A Unfair and untruthful.

Q Mr. Shorter, have you ever worked local 14 equipment?

A I have been on a compressor, roller.

Q You said a compressor?

A Yes.

Q In New York City?

A Yes.

Q Did you work any of that stuff in the Army?

A Yes, I did.

Q Have you ever asked anybody to run Local 14 equipment in New York City?

A No, I haven't. There was a time when I was out to the school and a gentlemandid ask --

Q Which gentleman? When was this, Mr. Shorter?

A It was out at the school.

Q When, do you remember?

A It must have been in '72 -- '73 or '2.

Q Which school do you mean?

A The Engineers School.

Q And who was this person you were with?

A With Jesse Wise.

Q Is he black or white?

A Black.

Q And what happened out there?

A He asked an instructor at the 14 school, is it possible that he can get into the -- join the school out there.

Q Did you hear him say that?

A Yes, I did.

Q And what was the response?

A They was booked up.

Q Have you ever seen any young men operating 14 equipment?

A I can't recall seeing anyone operating 14 -- I know there was a couple around but I haven't seen any 14 members running any piece of equipment like that.

MR. DEVORKIN: I have nothing further, your Honor.

CROSS-EXAMINATION

BY MR. KENNEDY:

Q Mr. Shorter, you have testified earlier about a conversation that you had with a master mechanic at the World Trade Center --

A Yes.

Q -- do you recall that?

A Yes.

Q Was that Dan Braxton?

A Yes.

Q What union is Mr. Braxton a member of?

A I don't hear you.

Q I say, what local is Mr. Braxton a member of?

A 14.

Q Is he white or black, sir?

A White.

Q I believe you testified that you were operating a

piece of machinery and he beckoned you up to him --

A Yes.

Q -- is that correct?

A That is correct.

Q And what did he say to you and what didyou say to him?

A He said to me -- he said "I am the master mechanic"-- in other words, he was challenging me, do I have a book.

Q Did he say anything to you about challenging you?

A That would mean when he say he is the master mech.

Q You assume it, isn't that correct, that he was challenging you, Mr. Shorter?

A He challenged me.

Q Well, what did he say, sir?

A He say "I am the master mech".

Q Right. What else?

A And do I have a book.

Q He asked you whether you had a book?

A Yes, do I have a book.

Q Okay, because I was not clear on it.

A Yes.

Q And what did you say?

A I said "no".

Q And then what did he say?

A He said "How long you been running?"

And I told him from the time I started with the Engineers in the Army, and he said "I never seen anybody perform the machine the way you do, and it is impossible that you could be running 14 and 15 and never have a book"-- you know what I mean -- "you don't have a book".

Q Yes.

A So then he went to call Johnny Murphy.

Q Did you go with him?

A Yes.

Q And did you hear him call?

A Yes.

Q Did you have any further conversation with Mr. Braxton?

A Dan Braxton?

Q Yes.

A He was talking -- he was a gentleman, you could talk to him, and he would mingle with you -- he was very nice.

Q Did he treat you fairly?

A Yes.

Q How long were you at the World Trade Center?

A I was there about a month.

Q And did Mr. Braxton interfere with your operations

at all during the course of that job?

A No, he didn't.

Q Now did you see any 14 men who were black on that job?

A No.

Q You did not.

A No.

Q Now you say you had a conversation on a job for Gull with a master mechanic out there. Do you know what the master mechanic's name was, sir?

A I don't recall his name at this time, no.

Q Was he white or black?

A He was white.

Q Was he rude to you,sir?

A Yes, he was.

Q He was?

A Yes.

Q What did he say to you?

A Well, just what I said. He say "I am the master mech", and I say "I am a grader operator", and he say "No, you are not a grader operator".

I said, "What do you mean I am not a grader operator"?

He said, "You can't run a grader. Come with me."

So he went into his office and he gave me a check.

Q Did you ask the master mechanic for an opportunity to demonstrate that you were a grader operator?

A Yes.

Q You did?

A Yes, sir.

Q When was that?

A At the same time we was talking about what I was and he say I wasn't.

Q Because you omitted that when I asked you about the extent of the conversation; that is why I am asking about it now.

Tell me what you said to him about asking for an opportunity?

A I asked him, how did he know that I am not a grader operator when he won't even let me get on the machine.

Q Right, but did you ask him specifically for an opportunity to get on the grader?

A I don't have to ask him, when I am sent out on the job.

Q Did he ask you if you had a book?

A Yes, he did.

Q What did you say?

A "No."

Q You told him "No."

A No.

Q And did he also state you at that particular time that "I can't really tell whether you are a grader operator or not".

A He didn't say I wasn't a grader. He said I can't run no grader -- just like that.

Q That is the full extent of that conversation?

A Yes -- I can't run no grader.

Q And you took your check and left?

A Yes.

Q You returned the next day, did you not, sir?

A Yes.

Q Did you operate the grader?

A They let me go on the grader for a little while, yes.

Q Did the master mechanic throw you off, sir?

A Yes, he did, because he is the one that asked me off -- he took me off.

Q Was there work to be done?

A They needed graders.

Q How do you know that?

A Because he was working the next day.

Q Who was operating it?

A A white operator was operating it.

Q A white fellow?

A Yes.

Q What union?

A What union?

Q Yes.

A Well we don't have but one union in the Operating Engineers.

Q No; what local?

A 15.

Q 15. You are sure of that?

A Yes, I am sure it was Union, yes.

Q How do you know that?

A How do I know?

Q Yes.

A Because -- well, because.

Q Did you ask to see his book?

A No, I didn't ask to see his book.

Q Do you know whether or not he was a grader operator?

A Because he was running it.

Q I see.

A He was running it.

Q In the period of time that you have been a member of Local 15 have you had unpleasant experiences with members of Local 14?

A Unpleasant experiences?

Q Unpleasant experiences.

A I don't quite follow you.

Q Well, was your experience with Mr. Braxton pleasant or unpleasant?

A Unpleasant -- oh, pleasant -- Dan Braxton. I don't know his last name.

Q All right, we will call him "Dan".

A Dan, okay.

Q The master mechanic at the Trade Center?

A Yes.

Q That was a pleasant experience?

A Yes.

Q Have you had any other pleasant experience with members of Local 14?

A I can't really say, no more than speaking. "How are you doing? How are you doing on the job?"

Q Have your experiences by enlarge been pleasant with members of Local 14?

A Yes, I would say with members.

Q Are you talking about going out to Kennedy Airport at one time to the school up there?

A I wasn't going out to the school myself.

Q You were not going out there?

A No.

Q What were you doing there?

A I had a brother in the school out there.

Q In Local 15 school?

A Local 15 school, yes.

Q So you went out to see him?

A Yes.

Q And how is Jesse Wise?

A Jesse Wise is a member of 15.

Q And he was with you at that time?

A Yes.

Q I take it, then, you saw certain equipment that was not Local 15's equipment out there--

A Yes.

Q -- is that right?

A Yes.

Q Do you know whose equipment it was?

A I can't recall seeing a name on it, no.

Q Did you recognize it as Local 14's equipment?

A Yes.

Q Okay. And Mr. Wise went over to speak to somebody at the school?

A Yes, he did.

Q Do you know who that man was?

A No.

Q Were you with him at the time he had the conversation?

A Side by side, yes.

Q Okay. And what did Mr. Wise say to him?

A He asked him could he join his school, the Local 14 school, and he said he's booked up.

Q Did the instructor ask Mr. Wise if he had a book in Local 14?

A I can't recall.

Q Is it possible thathe did.

A That he had a book in 14?

Q No. I say, is it possible that the instructor asked Mr. Wise if he had a book in Local 14?

A It's possible, yes, it's very possible.

Q Were there people operating the equipment out there at that time?

A Yes.

Q Local 14 equipment?

A Local 14 equipment.

MR. KENNEDY: I have no further questions.

CROSS-EXAMINATION

BY MR. BRADY:

Q Mr. Shorter, you say you first came down to Local

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15's hall in September of '68; is that correct?

A Yes.

Q And do you know about what date in September?

A No.

Q As I recall your testimony, you had conversation with Mr. Murphy?

A Yes.

Q John Murphy?

A Johnny Murphy.

Q Johnny Murphy?

A Yes.

Q Then you went to Joint Apprentice.

A I went back to the Unemployment.

Q Unemployment, and they sent you to the --

A Back to the Joint Apprentice.

Q Is that what is now called Recruitment and Training -- are you familiar with that?

2-3

A No, I think it is just the same name.

Q Do you recall, Mr. Shorter, a person at Joint Apprentice that you spoke to?

A No, I don't at this time.

Q Was it Mr. Raffles?

A I can't recall it just now.

Q At any rate, you received a letter from him, or did

he call for you?

A I received a letter from him to join the Apprentice Program.

Q Yes-- they called you?

A No, they sent me there from Unemployment.

Q Yes, I understand. And then Joint Apprentice, they called the union on your behalf?

A Yes.

Q And what happened then?

A He called the union and he said "Go back down there".

Q Did anyone from Joint Apprentice go down with you --

A No.

Q -- or did you go alone?

A I went down alone.

Q And do you know what time of the day that might have been, do you recall?

A It was in the morning time.

Q Mr. Rogers spoke to you?

A The second time, yes.

Q Yes, the second day?

A Yes.

Q And you signed a wait list?

A Yes.

Q And how long was it before you got a job?

A Two to three days, something like that.

Q Did Mr. Rogers or any other business agent ask you any questions about what machines you could operate?

A After I signed the list I told Mr. Rogers at this time all the machines that I could operate, and I signed the list, and nobody else asked me any questions.

Q Nobody else spoke to you?

A No.

Q Then there came a time when you were sent out to the first job?

A Yes.

Q And it was a road grader?

A Yes, it was.

Q And for whom was that, if you can recall?

A As I recall it was Fanco.

Q And what kind of work were you doing?

A Road grade work -- they were tearing up the sidewalk, but they had a roller on the blades -- a rolling blade that you could cut the asphalt with first.

Q Was that being operating by some other union member?

A It had been operated by some other union member at this time, yes.

Q And was he still on the job when you came?

A He was on the job when I came there.

Q Were there any other operating engineers on the job when you came?

A Yes, there was.

Q Did you have any problem with those engineers on the job?

A No, I didn't.

Q And how long did that job last?

A Three days.

Q And then the job was ended when you left?

A I don't knowwhether it was ended but he said there was no more work.

Q And then you went back to the hall.

A Yes, I did.

Q When you went to the hall what did you do?

A I went back to the hall and I signed the list again.

Q Did you have any problem signing the list?

A No problem signing the list.

Q And how long did you have to wait then?

A If I recall correctly, it was two weeks to three weeks.

Q So it might have been October, something like that?

A Yes.

Q And you got another job with Slattery?

A Yes.

Q Tell us about that job -- where was that?

A That was on the Brooklyn-Queens Expressway, a new extension by Slattery.

Q And were there other operating engineers on that job?

A Yes, four grader operators and a whole lot of equipment there.

Q A lot of equipment?

A Yes.

Q Did you have any problem on that job?

A No.

Q Did anyone stare at you at gawk at you?

A Well I had a lot of attention -- people looking at me.

Q Who was looking at you?

A Other engineers and other operators, other people -- laborers.

Q Laborers too?

A Yes.

Q Did they stop their equipment to look at you?

A No, they didn't necessarily stop the equipment, they sort of like amazed.

Q You thought they were amazed?

A I would say they were sort of like amazed.

Q They were amazed?

A Yes.

Q This is 1968?

A Yes.

Q And they were amazed that there was a black man on the machine?

A Amazed that there was a black man, yes.

Q Did you see any other black men -- have you ever seen any black men operating machines?

A I never seen no black operators. I know there is black operators but I never seen them. I have never been on a job with a black operator.

Q Now the Fanco job, whatever job that was, and the Slattery job, which business agent sent you to those jobs?

A Keenan sent me out on the Whitestone Bridge job.

Q Keenan?

A Yes.

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Q Who sent you to the Slattery job?

A If I recall correctly, Johnny Murphy sent me.

Q Did he say anything to you when he sent you?

A No, no more than this is a grader operator on Slattery.

Q He didn't challenge the fact that you were a grader operator?

A No.

Q Then you said you didn't work until early 1969, is that right?

A Yes.

Q The Lanza job?

A Yes.

Q Do you know what month you went to the Lanza job?

A No.

Q Early 1969?

A It seems like early 1969, yes.

Q The Slattery job lasted about a month, isnt that so?

A About a month.

Q This would be, then, November when you were in the hall, isn't that so?

A Yes.

Q You went out early in 1969 when the Lanza job, isn't that so?

A Yes -- not early, something like August I would say, something like six or eight months apart.

Q You say early 1969?

A August.

Q August is early? During that period of time how frequently did you go to the hall, the day room?

A How frequently? Say three days out of the week.

Q What would you do the other two days?

A I had to go to the Unemployment Office one day and the other day, there is no sense going back if I had nothing in three days, there is no sense going back Friday.

Q During that period of time did you talk to any business agents?

A No.

Q You never talked to a business agent?

A I can't recall -- this period of time, the last conversation with Mr. Murphy, I didn't talk to none.

Q Mr. Keanan sent you out on a job?

A Yes.

Q Did you talk to him during this six months?

A No. They didn't come over and say, "How are you doing or something like that." You don't get that too

frequently.

Q Did you go up to them and say you hadnt been working in six months?

A No. The only time I went up to them is when Mr. Murphy went to the bathroom, about six months later.

Q How about Mr. Rogers, did you see him around?

A I seen him.

Q Did you speak to him?

A No. I spoke to him when I came in the union hall.

Q Did you speak about your unemployment?

A No.

Q Did you see blacks in the hall during this time?

A I don't recall seeing any blacks at this time, the whole time I was there, I can't recall.

Q Did you go back to the apprentice?

A No.

Q You didn't?

A No.

Q They had helped you the first time, had they not?

A They called up the union hall. They helped me, yes.

Q Why is it you didn't go back to them?

A Well, I don't know the reason why I didn't go

back; just didn't go back. Wait and see how much I could take and when I am going to get some work.

Q For six months or so you came in three times a week and didn't speak to any business agent?

A What is that?

Q You didn't speak to any business agent?

A I didn't, no more than good morning.

Q When you went to the Lanza Bros. job, where was that?

A Brooklyn.

Q Was that a grader job?

A No.

Q What kind of job?

A 450 loader job, backhoe attachment.

Q You say you stayed there about two years at least with Lanza Bros.?

A Yes.

Q You said you are in contact with Mr. Murphy during this two-year period of time?

A Yes.

Q Was that over the telephone?

A Yes.

Q You never came back to the day room during the two years?

A Just called him up everytime I moved.

Q During the two years' time did he ever tell you no, you can't move, "I am sending someone else out to that job"?

A No, he didn't say that because I was working for Lanza. I was on a Lanza machine.

Q But you would change jobs?

A Yes.

Q And transfer to another job?

A Yes.

Q He never told you that you couldn't transfer, did he?

A No, he is not supposed to tell me that, that I couldn't transfer from a job so long as I was on the same machine. I felt so long as I was on the same machine he couldn't tell me I couldn't leave and go to another job.

Q He never tried to do that?

A No.

Q As a matter of fact, you said when you were challenged a call to the hall would straighten everything out, isn't that so?

A A call to the hall helped me on the challenge.

Q You stayed on the job?

A I stayed on the job, yes, sir.

Q During this period of time were contributions made on your behalf to the Welfare and Pension Funds, isn't that so?

A Say that again.

Q Contributions were made on your behalf to the Welfare Fund and the Pension Fund, isn't that so?

A Yes. I don't know, the contractor made the contributions.

Q Yes.

A I imagine they were.

Q You imagine they were?

A Yes.

Q Do you recall about how much money you made in 1969?

A In 1969?

Q Yes.

A $14,000, I think. I am not sure; about fourteen.

Q How about in 1970?

A I am not sure.

Q Approximately.

A About the same.

Q Another fourteen. You were able to buy your own equipment in May of 1970?

A Yes.

Q I think you said May.

A In 1970. I don't know what month it was.

Q How much did the equipment cost you?

A $12,000.

Q Then there came a period of time,if I understand you correctly, that you started renting out the equipment?

A Yes. I rented it out, one time.

Q That was in 1970, was it?

A I don't recall what day it was rented out, but when I first got the machine I was working myself with this guy here, got a contract for me, an earth man.

Q Were you running your own equipment for a time?

A Yes.

Q You had a contract then directly with some general contractor for a rental or how was it?

A He called me up for the machine and asked me did I have a machine.

Q Who was this person?

A J something, excavators.

Q How did he find out, if you know, that you had this equipment?

A I had thrown cards around everywhere. I would go to contractors' jobs and give my card here and there.

Q Were you able to get a lot of work that way?

A No, very poor.

Q Did you ever hire union men to work your equipment?

A Everytime it ran I hired union on it.

Q You hired him?

A Yes.

Q For how long a period of time did you yourself operate the equipment?

A How long a period of time did I operate equipment?

Q Yes, your own equipment.

A Well, it didn't work all that much. When we first started off I ran it myself and then I went to this guy and the other time it was set up.

Q How long was the rental?

A He said he wanted it a couple of days.

Q A couple of days?

A Yes.

Q You only ran your own equipment a couple of days?

A No. I only handled one contract for this machine and I ran it myself.

Q How long did that job last?

A A month.

Q This was in 1970, Mr. Shorter?

A 1971, 1970, something in there.

Q There came a time where you got other contracts from someone and someone ran the equipment for you, is that right?

A I got another and the guy ran the machine, yes. Another contractor wanted to rent the machine.

Q One other job?

A One other job.

Q When was that job?

A When was it?

Q When?

A It must have been 1971.

Q How long did that job last?

A The second day after he got that machine on Wednesday or Thursday, I think, and that weekend the machine was burned up.

Q How had the machine gotten to the job, do you know?

A He come pick it up.

Q The company picked it up?

A Yes, the engineer come and picked up the machine.

Q White or black?

A White guy.

Q You didn't deliver the machine at the job?

A No.

Q A white engineer left it at the job?

A Well, he left the machine, parked it for the night. I am not saying he run the machine up.

Q I didn't suggest that. Do you know who did burn the machine?

A No.

Q Did the police ever find out?

A No.

Q Do you think that the union burned the machine up?

A No. I have no reason to think they would burn it up.

Q How about on the other occasion when the machine was damaged. Do you have any reason to believe the union did that?

A I have a feeling that the guy running the machine, he had something to do with it. I believe in my mind he had something to do with it.

Q Why do you say that, Mr. Shorter?

A Because he left with that attitude in the first place.

Q What did he say?

A He didn't say nothing, he looked like you took my job from me. But I wasn't there to take his job.

I went there for work and I had the contractor do this job and my machine was on the job.

Q You just had a feeling?

A Just a feeling he had something to do with it.

Q He was resentful at having lost his job?

A Yes.

Q How long did you work on the World Trade Center?

A About a month.

Q During that time did you see any blacks as operating engineers?

A No.

Q What part of the World Trade Center were you working on?

A Northwest.

Q Were there a lot of engineers on the job?

A Yes.

Q When was it that you obtained your union book?

A May, 1970.

Q At that time were you working?

A Yes.

Q Were you working before you got the book?

A Yes, I was.

Q Receiving all the contributions that any man was getting working under the jurisdiction, isn't that so?

A I got paid, yes.

Q And had your contributions made on your behalf?

A Well, it is up to the contractor. I imagine it was paid because they never said anything that the contractor wasn't paying my benefits into the union.

Q But you could tell from the slip, couldn't you, the pay slip?

A Yes, the pay slip, they made all the contributions.

Q All contributions to the fund were made on your behalf?

A Yes.

Q Has that always been so since you started working under the jurisdiction?

A Yes.

Q Did you have any occasion from 1968 to 1970 to apply for any Welfare benefits?

A Did I have occasion to apply for Welfare benefits?

Q Union Welfare Fund benefits.

A Do you mean --

Q Medical benefits or something like that?

A No.

Q You had no occasion?

A I had no occasion.

Q From 1968 until May, 1970, when you obtained your

book, had you ever gone to the hall, the union office, the union day room and requested a book?

A I called Mr. Murphy.

Q You never had gone down there?

A No, I was working.

Q Were you working all that time?

A Yes.

Q Then you testified there was a period of time when you took some time off. Do you recall that?

A Taking some time off?

Q Yes.

A I don't quite follow you.

Q As I recall your testimony, you said that after the machinery was damaged the second time you didn't bother going down to the union hall for a while, you took some time off.

Do you recall saying that?

A No, I didn't. I don't recall saying that.

I said after the machine was burned up I was going down there all the time. I was still doing work.

Q Were you still getting work from the union at that time?

A Not like I should, no.

Q Were you still getting work from the union?

A Yes, day work, a day job, two-day job.

Q What year are we talking about now?

A I am talking about from the time I had the machine.

Q In 1970?

A In 1970.

Q How much money did you make in 1970?

A About fourteen.

Q Thousand?

A Including the work with the machine.

Q Do you recall any of the jobs you had in 1970?

A No, I don't recall no jobs. I can't say what job it was in 1970, no.

Q In 1971 you still had your equipment then, did you?

A Yes.

Q In fact, do you still own that equipment?

A It was demolished with the fire.

Q In 1971 did you run that equipment at all?

A I didn't -- like I say, I didn't get no work. I got a one-day job, and jobs like that. I couldn't depend on the machine no more.

Q Were you insured at that time?

A Yes, I was.

Q What was the name of the corporation?

A Hedrington & Shorter, Inc.

Q Where were your offices?

A Jamaica.

Q Did that corporation operate during 1971?

A Yes, it did.

Q Did this corporation make a profit in 1971?

A No. The machine never worked for me when it was incorporated. We did demolition work and rented it, but we rented the loader and trucks from other contractors.

Q You rented them?

A Yes.

Q Did you operate them yourself?

A No.

Q You paid an operator to operate your equipment?

A I didn't have no equipment.

Q The equipment that you rented?

A Yes.

Q Was that equipment that you yourself could operate?

A Yes.

Q What were you doing during this period of time that you had to hire people to run your own equipment?

A Supervising my jobs, seeing it was done the way I wanted to do it.

Q This was during 1971?

A 1971.

Q And 1972 as well?

A 1972, yes, we did some -- never was big because we didn't have money enough for demolition and did small jobs and bid on work. The money we had was the money in the corporation.

Q In 1971 how many jobs did that corporation have?

A Two at the most.

Q What was the length of those jobs?

A Three or four days. Only one was big, was the most work with the Earthbank Construction Company.

Q In 1971?

A I dont recall the year, 1970, 1971; I am not sure.

Q At any rate, during the time when you supervised the jobs, you didn't go down to the day room, I presume, is that correct?

A So long as I was making money, no.

Q Did the work of the corporation require you to go around looking for jobs?

A Yes. I had to go around to different contractors and excavators doing work for them. They give you a sub-lease so you do some work. It was a failure. It never got off the ground.

Q Did you spend a lot of time attempting to get that corporation going?

A Yes.

Q You were still working out of the day room at the same time?

A Not when I was doing this, running around.

Q But that took a lot of time?

A It took a lot of time, yes.

Q Did it take a lot of your time in 1972 as well?

A No, it didn't require as much because we wasn't getting no contractors.

Q In 1972 how much money did you make?

A I don't recall, but about the same.

Q About $15,000, 14,000?

A Fourteen, fifteen.

Q Was that money from the corporation or from your own work?

A Some money from the corporation and some from the running.

Q Do you have a restaurant now?

A Yes, I am trying to get one. I don't have it signed and sealed and delivered, but I am trying for it.

Q That is out of State?

A Yes.

Q When did you first get that idea to get a restaurant?

A Well, I had the idea for quite some time, but just decided to go ahead and really try to get into it because I am not doing the work here.

Q In 1973 did you take any steps in order to start the restaurant business?

A No.

Q In 1973 you were working out of the day room?

A Yes.

Q Did you get any jobs on your own?

A Yes, I got jobs on my own.

Q A lot of jobs on your own?

A Yes.

Q Did you get jobs on your own in 1972?

A Yes, I got some jobs. Most of the jobs I got was on my own.

Q Anyone from the union keeping you from getting jobs on your own?

A No, because maybe they didn't know.

Q But no one stopped you?

A They didn't have to, no.

Q Were you working on jobs with other operating engineers?

A Yes.

Q When you got your own job?

A Yes.

Q When you went there did the employer raise any problem about your not being sent from the union?

A No, he didn't say it. The contractor, I called the contractor up and he said, "Okay, I got a machine here to run, so come and run it." Sometimes I would be the first man there. If it was a job, a job to stay on a long time, you have to be the first operator there.

Q Would you stay a long time then?

A By me getting on the job most of the time I stayed a long period of time.

Q What would be a long period of time that you would stay?

A Six months.

Q Was that in 1972?

A 1973, I am sure of 1973.

Q In 1973 six months? Any problem with the union over that?

A No, no problem with the union.

Q I just want to clear up one thing with you.

You testified that you received your book in May of 1970?

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Q When did you pay the initiation fee?

A It was paid -- I am not sure, I think the same day they called me down to get the book, yes, it was.

Q You got your book that day?

A No, I didn't get it until six months later.

Q Six months later?

A Yes.

Q From the time that you didn't have a book and were working under the jurisdiction of the union, to the time you did get a book, was there any change in your rates of pay?

A Yes.

Q What was that change?

A Well, I was working more without the book, I got more work, you know. And when I got the book, now I am doing nothing.

Q In other words, you were better off without your book?

A It seemed as though.

Q But were you paid the same hourly rates for the particular jobs that you did?

A Yes, you get the same amount.

Q When you were working without a book, you weren't paying any dues either, isn't that so?

A I wasn't paying any dues.

Q And there wasno such thing as a permit fee either, was there?

A No. I had to pay $360.

Q Wasn't that the initial fee? Did you pay any Did you pay any fees to the union prior to May of 1970 when you were admitted into the union?

A No, no more than just -- no.

Q Is it your opinion that it is not worth your while to work out of Local 15?

A I am saying this here: I can't get the work from the union and I feel myself that I should not be out of work at no time.

Q At no time? In other words , you are looking for steady employment?

A I am looking for steady employment, yes.

Q Your brother, is he in the union now?

A Yes, he is.

Q Is he a younger brother?

A Yes.

Q Did you refer him to the union?

A Yes, and I taught him how to run, I referred him to the union, to the school.

Q Weren't you worried about his employment with the union?

A Yes, I am worried about his employment with the union.

Q Why did you teach him to run and refer him to the union?

A I figured times got to get better instead of worse, like sometimes one of these days I imagine it will be better than it has been.

Q Did he attend the school, the union school?

A Yes.

Q How long did he have to wait to get intothe school?

A After he signed the list he waited a year, a year and a half.

Q During that time was he working?

A No, he wasn't. I was teaching him, taking him on the job with me and showing him how to run it.

Q Any problem teaching him to run on the job?

A Yes.

Q With who?

A In Staten Island I had a problem.

Q With whom?

A With the master mech and other members of the union and contractors.

Q And contractors?

rp

A Yes.

Q What kind of equipment were you teaching him to run, Mr. Shorter?

A The loader, backhoe.

Q When during the day were you teaching him to run this?

A When I feel it was necessary, I take the time, I will teach him and take my time about it and there was times that the machine didn't have to do any work, I just let him get on it and try it out.

THE COURT: How old was he at this time?

THE WITNESS: 20, I believe.

Q Was this your equipment or the contractor's equipment?

A The contractor's equipment.

Q Did you teach him on your own equipment as well?

A Yes.

Q When did he graduate from the school?

A 1973.

Q How long was he in the school?

A He was there about eight Saturdays.

Q Eight Saturdays?

A Yes.

Q Did he successfully -- was he tested and was he

graduated?

A Yes.

Q Has he been working out of the union since that time?

A The first job he got on the union. Now he just don't go back, he is still with the same guy, working two days, one day, and waiting until the guy has more work and he works one or twodays again.

Q So it is semi-steady employment with a contractor?

A Yes, at least one or two days a week.

Q He doesn't bother to go to the union day room?

A No.

Q Did you work out of the day room in 1974, Mr. Shorter?

A Yes, sir.

Q Do you recall what jobs you got out of it in 1974?

A I got a job in 1974, a tunnel job.

Q How long were you on the tunnel job?

A I was there two or three weeks.

Q What other jobs did you get?

A Two of the tunnel jobs.

Q The other tunnel job, how long was that?

A Two weeks.

Q What other jobs did you get?

A The one-day stand in the upper Bronx. I forget the name of the contractor. The guy wanted us to work 12 hours a day, and a couple of more, I can't remember all the one or two-day jobs I did.

Q Where were the tunnel jobs, Mr. Shorter?

A High Bridge.

Q Who were you working for there?

A Water Tunnel --

Q Contractors?

A Yes.

Q And under what circumstances did you leave those jobs?

A It was finished.

Q The tunnels were finished?

A The job I was sent there to do was finished.

Q What was the job you were sent there to do?

A I was on the 951 loader to muck the drift.

Q What is the drift?

A The drift is about a 12-foot hoe, 12 x 12 x 12 and it runs straight up like an air breather. When it is needed to pour the concrete in the tunnel, they use that to get to the tunnel.

Q Are they still using that drift?

A No -- I imagine they are still mucking out, but that definitely is finished.

Q Were you laid off from those jobs or did you indicate you wanted to leave those jobs?

A No.

Q Now, I didn't understand clearly the facts surrounding the job in the Bronx where you said they had some forms, some type of special forms?

A Yes.

Q How did you get that job, first of all?

A Tom McGuire, Jr. sent me on the job.

Q To do what work?

A Maintenance.

Q Were there any maintenance people on the job when you got there?

A I can't recall any being there.

Q Any other trades doing that work when you got there?

A Doing work, yes.

Q Doing the work that you were sent to do?

A No.

THE COURT: I don't want to interrupt you but are you going to be much longer?

MR. DEVORKIN: Your Honor, in light of -- I would like to have Mr. Shorter finish today, because he is an out-of-town witness, and I would like to partially retract my suggestion this morning, because I have a witness who is working, who will only be about five or ten minutes.

THE COURT: That is all right.

BY MR. BRADY:

Q And what did that maintenance work consist of, Mr. Shorter?

A When I got there he sent me out to tighten some fittings, that the hydraulic compressors were leaking.

Q Is this the job in the Bronx where they were building floor on the ground at the Russian Embassy, where they were jacking up every floor?

A Yes.

Q Building it from the top down?

A Yes.

Q And is that what you wereworking on, these hydraulic lifts?

A Right.

Q And were you told at the hall you had to tighten

fittings?

A Yes.

Q When did you learn that?

A When did I learn that?

Q When did you learn that was what you had to do, was to tighten these fittings?

A Mr. Maquire told me.

Q At the hall.

A Yes.

Q Did he indicate to you how long the job would be?

A He said there was some fittings there to be tightened -- I don't recall him indicating how long it would be.

Q But what he said about it was that there was some fittings to be tightened. Did you ask him how long the job would last?

A I don't recall.

Q Have you ever done any welding or burning, Mr. Shorter?

A Not in the union but I did -- I have did it.

Q When you got to the job in the Bronx were you required to do any burning?

A No.

Q Overall how long did you work in those tunnel jobs?

A How long did I work in those tunnel jobs?

Q Yes.

A One less than two weeks, and one less than a week.

Q Were th y with the same employer?

A I guess I was working in Roosevelt Island and one on High Bridge.

Q Where was it you were working on the drift?

A The drift? Both of them.

Q Both of them?

A Yes.

Q You say that phase of the work stopped.

A Yes.

Q Now did you see any black operating engineers in the tunnel job?

A Black operating engineers in the tunnel jobs?

Q Yes.

A In Roosevelt Island I cannot recall seeing any. In High Bridge, yes, there was -- I am sorry, yes, there was.

Q What was he doing?

A He was operating a drift.

Q The first one in six years, is that right?

A That is the first one.

MR. BRADY: May I have just a moment, your Honor?

(Mr. Brady examines.)

MR. BRADY: I have nothing further, your Honor.

MR. DEVORKIN: I will very brief, your Honor.

REDIRECT EXAMINATION

BY MR. DEVORKIN:

Q The equipment that you bought, Mr. Shorter, did you pay cash for it?

A No, I didn't.

Q How did you pay for it?

A I had two thousand of my own and the rest was the loan from the S.B.A.

Q Have you ever been laid off a particular machine when that machine continued to work on a job?

A That machine, a grader at that time.

Q Have you ever been referred out to f _l in as a replacement from anyone?

A Yes, sir, I have.

Q When was that.

A That was on the 125th Street job -- the Pollution, I think it is. I was sent out to replace a guy that was on vacation or sick or something.

Q How long do replacement jobs last?

A Two days.

Q Does that happen frequently or infrequently?

A Frequently.

Q Do you know why your brother doesn't go to shape up at all?

A Well, he is working one day or two days out of the week, so I imagine that is one reason he won't go to the hall.

Q You said you taught your brother how to operate.

A Yes, sir, I did.

Q Sometime after that he went out to the School of the Union?

A I talked to Mr. Murphy -- Danny Murphy and he had him sign a waiting list and he put him in the school.

Q Before he eventually got in the school is it your opinion that he could or could not operate a machine satisfactorily?

A He could.

Q But he still went to the school?

A Yes.

Q When you were out at the Local 15 school with Mr. Wise, your friend, and he approached a Local 14 school instructor, did you observe any of the Local 14 equipment out there?

A Yes.

Q Do you recall whether it was all in use at the time?

MR. KENNEDY: That has been asked and answered, your Honor.

MR. DEVORKIN: That question was not.

MR. KENNEDY: That questionwas asked and answered.

MR. DEVORKIN: I absolutely except to that. It was not asked and answered at all.

THE COURT: Let us go ahead.

(Question read by the reporter.)

A No, it wasn't.

Q You got out of the Army in 1968?

A I got out in 1966 -- I got out in 1968, yes.

Q Which part of the year was that?

A September.

Q And when you were answering Mr. Brady's question about your earnings in 1968, did that include your Army earnings?

A I don't recall him asking me in 1968.

Q Do you recall how much you earned in 1968?

A About 3,000 -- 2,000, 3,000.

Q From the union?

A Yes, from the union.

Q Did you also earn money from the Army that year?

A Yes, I did.

Q Is there any doubt in your mind, Mr. Shorter, about

the length of time you did not work in 1969?

A Is there any doubt in my mind as to why I did not?

Q Is there any doubt in your mind about the length of time that you did not work in 1969?

A No, there is no doubt.

MR. DEVORKIN: I have nothing further.

RECROSS-EXAMINATION

BY MR. BRADY:

Q Just one question -- isn't it a fact, Mr. Shorter, that you asked Mr. Murphy on behalf of your brother so that he could go to school?

A Say that again?

Q Didn't you ask for your brother to go to school?

A Yes, I asked.

Q Right. You wanted him in school, isn't that so.

A But that was the only way he is going to get book.

Q But you wanted him in the school?

A Yes.

Q By the way, in this restaurant business you are setting up now --

MR. DEVORKIN: Objection. This is way beyond re-direct.

MR. BRADY: So were your questions.

THE COURT: Go ahead. We are trying to bring this

to a close.

MR. BRADY: Thank you, your Honor.

Q Your restaurant business, had you been spending time out of state to set this up?

A When I left, a week -- I have been down there a total throughout the whole year -- I have been down there four times for a period of three to four days at a time.

MR. BRADY: No further questions.

THE COURT: You are excused, thank you.

(Witness excused.)

MR. DEVORKIN: May I have your Honor's indulgence for just one moment.

(Mr. Devorkin examines.)

MR. DEVORKIN: Neville Aikman.

N E V I L L E A I K M A N, called as a witness on behalf of the plaintiffs, after having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. DEVORKIN:

Q Mr. Aikman, keep your voice up and please speak slowly.

How old are you?

A 30.

Q I am sorry?

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A 30.

Q Where were you born?

A Kingston, Jamaica.

Q And how long have you been in the United States?

A Six years.

Q When did you first come here?

A '68.

Q Did you ever become a permanent resident of the United States?

A Yes.

Q When was that?

A In '69.

Q And where do you now live?

A 754 Henry Street, Brooklyn.

Q Are you testifying under subpoena today?

A Yes.

Q When was the first time that you had experience as a heavy equipment operator?

A '63.

Q And where was that?

A Cuba -- Quantanamo Bay.

Q And how did you first get that experience?

A I was recruited by the government there, to work for the United States Government.

Q Where were you living at the time?

A Jamaica.

4-2 Q And after you were recruited what happened?

A I started working at Guantanamo Bay.

Q Did the government pay your expenses over there?

A Yes, the government paid.

Q And how long did you stay in Guantanamo Bay?

A Two months -- two years.

Q During that time did you work as an operating engineer?

A Over there, yes.

Q Did you know how to do that before you went there?

A Well, yes. I had ideas -- yes, I used to operate in Jamaica for my friend.

Q Did you get any training in Cuba?

A Yes.

Q What kind of equipment did you operate in Cuba?

A Dozer, front end loader; motorized scraper and loader.

Q Did you ever take any further training in the United States?

A Yes.

Q When was that?

A '70.

Q And where did you take that training?

A Vincent Town, New Jersey.

Q And how long was that training?

A Three weeks.

Q Every day?

A Yes, I took resident training.

Q What would you do every day?

A Well, I operated a dozer, backhoe and front end loader.

Q Did you pay for that training or was it free?

A I paid for it.

Q How much did you pay for it?

A $60.

Q After that did you ever attempt to get work from Local 15?

A Yes.

Q What did you do and when?

A After I graduated from school I went down to the union hall.

Q Which union hall?

A On 15th Street.

Q Local 15?

A Yes.

Q And who did you see there?

A I spoke to John Murphy.

Q Do you see John Murphy in the courtroom?

A No, he is not here now.

Q Was he here before?

A Yes.

Q Do you remember where he was sitting?

A Yes.

Q Where was he sitting?

A He was sitting right there (indicating)-- where that man is sitting now.

Q Where this other man is sitting now (indicating)?

A Yes.

Q What did you say to Mr. Murphy and what did he say to you?

A I said to him I have graduated from school, you know, and I need a job, I have experience, and he said, "Where are you from?"

So I said, "I am from Jamaica."

So he said he ain't got no job now but I must go keep on coming back.

Q He told you to keep coming back?

A Yes. So I keep going there every morning at 6 oclock and sign my name on a piece of card and put it through the window but I didn't get no call to go out.

Q How long did that last?

A About three weeks, but he told me for me to be a recognized operated in the United States I have to have a union book, that it will cost $2,000.

Q When did he tell you that?

A In another three weeks, I would go there.

Q What did you do and what did you say when he said that?

A I said "Man! $2,000, I ain't got a job."

I says "Okay, send me out on a job and I will pay you," but he didn't send me.

Q Did he say anything when you said that?

A Pardon?

Q Did he say anything when you said that?

A Well, he grumbles in this throat. I didn't understand what he was saying. He walked away from me, so I just left.

Q Did you get a job from him?

A No.

Q Did you ever go back again?

A No.

Q What are you doing now?

A Well, I work in the ship yard now.

Q Steadily employed?

A Yes.

Q How much do you make?

A Here?

Q Yes. What do you make hourly?

A 4.80.

Q Which shipyard is that?

A Todd.

MR. DEVORKIN: I have nothing further, your Honor.

CROSS-EXAMINATION

BY MR. BRADY:

Q Mr. Aikman, did you volunteer to come here before receiving a subpoena?

A No.

Q Had you spoken to the United States Attorney before?

A Yes.

Q Before you received a subpoena?

A I was sent -- I was called down here.

Q When was that?

A About two weeks ago.

Q Before that had you had any communication with the United States Attorney's office.

A Yes.

Q When was that?

MR. DEVORKIN: I really object. I cannot see what relevancy this is at all.

A This is a way back, a way back, about -- I really can't even remember now, because I have forgotten everything about this, you know -- I was way in '70.

Q Now you say you operated heavy equipment in Jamaica, is that so?

A Yes.

Q In Cuba, rather?

A Right.

Q And how long did you operate that equipment?

A What?

Q How long did you operate that equipment?

A Over a year.

Q And that was in 1963.

A Yes.

Q And then did you stay in Cuba after that?

A Yes, I went back -- you know, I took my vacation. I went back. I didn't operate the equipment when I went back.

Q So from 1964 on had you operated any equipment?

A No, because I traveled, you know.

Q You traveled?

A Yes, after I left Cuba I went back to Jamaica.

Q What were you doing in Jamaica for a livelihood?

A I do electrical kind of work.

Q What kind of work are you doing now?

A Well, I am dock hand.

Q What is that?

A Well, I work on ships -- bring the ships in.

Q You bring the ship in?

A Yes.

Q You operate equipment to do that?

A Yes.

Q What kind of equipment?

A Putting the ship in dry docks, taking it out of the water.

Q Are there levers that you operate -- buttons or what?

A Buttons.

Q And from 1964 until you went to the school in New Jersey had you been operating the heavy equipment?

A No, I just give it up.

Q You gave it up?

A Yes, from what Murphy told me.

Q No; my question was, from 1964 when you left Cuba until you went to the school in New Jersey, had you been operating heavy equipment during that time?

A No.

Q No.

A No.

Q When you first came to the United States in 1968 what were you doing then?

A Work.

Q What kind of work?

A Clerical work.

Q Clerical work?

A Yes.

Q For how long a period of time did you do clerical work?

A I was in one place six months; I worked at another place three months, you know, because I wasn't getting no money there.

Q What was the longest job you had after 1964, after you left Cuba -- what was the longest job?

A Well this job in the shipyard now, I am there two years, that is the longest.

Q That is the longest one?

A Yes.

Q Before that what was the longest job you had?

A I used to go to school.

Q In Jamaica?

A Yes.

Q What school did you go to?

A RCA Institute.

Q That is for electrical training, isn't it?

A Business machine repair.

Q Did you graduate from RCA?

A Yes.

Q And did you start in as a business machine repair man?

A I do that on my own, you know.

Q Well, did you try to find employment in that business?

A Yes, but I didn't get things.

Q You couldn't get any employment?

A No.

Q Is there any reason why you couldn't be employed after being a graduate of that school?

A Well, first they say I have to have my high school diploma, and I didn't have my high school diploma because these places that I went to, I took the test, I took the aptitude test and I took the trade test, and when I went up to see the man that was going to put me to work, he said "You haven't a high school diploma here," and I said, "no", so he couldn't use me, so I gave it up.

Q How many times has that happened to you?

A A lot of times.

4-3 Q You couldn't get a job?

A No.

Q And then you decided to go to this school in New Jersey?

A No, this is after I went to New Jersey.

Q Oh, I see. You went to New Jersey when -- in what year -- 1970?

A No, '72 -- '71.

Q '71?

A Yes.

Q How long is the school?

A Nine months.

Q Can you recall when it was that you went down to Local 15's hall?

A It was in '70.

Q Was that before you went to the school in New Jersey?

MR. DEVORKIN: Which school in New Jersey are we talking about, because there are two schools.

MR. BRADY: The operators school in New Jersey.

A Yes, that was after -- after I graduated from Vincent Town, New Jersey.

Q Yes?

A Then I went to the union.

Q How did you find out the location of the union?

A By a friend.

Q Who is the friend?

A His name is Derrick.

Q Derrick?

A Yes.

Q Is he a member of the union?

A Yes.

Q He is black?

A Yes.

Q Is he working out of the union?

A Yes, sometimes.

Q What did he tell you about the union?

A Well he says, you know -- well, I just graduated from school, the best place to look for employment is the union because they deal with equipment.

Q And did he say that was a good place to go for employment?

A Well he didn't say that was the best -- he just said "Try it."

Q How long at that time had your friend Derrick -- what is his last name?

A I don't remember his last name.

Q At that time how long had Derrick been working out of the union?

A Working --

Q Out of the union?

A About a year.

Q And had Derrick gone to the same school that you went to?

A No.

Q Now you say you went to the union. When was that-- about when, what month, what year?

A Well, the year was '70.

Q 1970. About what month was it?

A In June.

Q In June?

A Yes.

Q When did you graduate from school in New Jersey?

A In July -- the 31st of July.

Q July 31, 1970?

A Yes. I took three weeks resident training there.

Q You took three week resident training where?

A Vincent Town, New Jersey.

Q And how long had the school lasted?

A The course lasted for three weeks.

Q The course lasted for three weeks?

A Yes.

Q And you graduated July 1970?

A Yes.

Q July 31?

A Yes, I think that is the date. I would have to check my papers, you know, but I think somewhere around there.

Q So what month was it that you went down to the union?

A Just after I leave school, after I graduate.

Q In August, do you think it was?

A Yes, around that time.

Q Was your friend working at that time?

A Yes.

Q Did he go down to the union with you?

A No, because the union already sent him out on a job--he was on a steady job for about three months.

Q And you saw Johnny Murphy at the hall, is that right?

A Yes.

Q And what did you say to him?

A I says to him "I am looking for a job."

I says "I have experience in operation, the bull-dozer,and the front end loader, and I just graduated from

school here, would you place me."

Then he says "Where are you from?"

So I said, "I am from Jamaica", and he say "Well, we ain't got no work now but keep checking", you know.

Q Did you ask you to sign a paper there?

A Yes, a legal piece of paper -- I signed the paper and I put it through the window but I didn't get no call.

Q Did you come back the next day?

A Yes, for two weeks straight, six o'clock every morning I was there.

Q Was the office open at six when you got there?

A No, the office don't open at six but I was right at the door.

Q What time did the office open?

A Well, 7:30.

Q What would you do when you went into the office every morning?

A Get a piece of paper, I went up to the window, and one of the clerks say "Can I help you?"

"Yes, I want a job."

"What kind of machine can you operate?"

"Bulldozer," so I put down "dozer" -- right.

Q Yes.

A And I give it to him; okay, and I have a seat.

Q What kind of paper was it?

A A piece of paper -- a piece of book leaf.

Q Were there other names on that paper?

A No.

Q Yours was the only name on the paper?

A It was a piece -- a short piece of paper and he say "sign here".

Q When you say "short", you mean a few inches wide?

A Yes, about three inches by four inches.

Q Three inches by four inches?

A Yes.

Q And that is the paper you signed?

A Yes.

Q And you put it through the window?

A Yes.

Q Now was there ever any time when you were down there that you saw anybody else sign any other piece of paper?

A Yes.

Q What kind of paper?

A The same kind of paper.

Q Each man signed a different piece of paper?

A Yes.

Q I see. And then each took the separate piece of

paper and put it through the window, is that so, sir?

A Yes.

Q And this was in August of 1970. And you went down there every day for three weeks, sir?

A Yes.

Q Did you ever see a larger piece of paper with more signatures on it?

A No.

Q No? At any time during that time did anyone of the business representatives come out with a pad and a sheet of paper like this (indicating) and ask people to sign up?

A No. He called out names and say "Well you go to so and so place, you go to so and so place, you go to so and so place, you go to so and so place" -- and that's it.

Q So you would get there as soon as the office opened in the morning; correct?

A Yes.

Q And what time would you leave?

A About mid-day.

Q About mid-day?

A Yes.

Q And you never saw anyone sign a long sheet of paper, the men sign a long sheet of paper?

A No.

Q How many men were in the hall at that time?

A It was crowded.

Q It was crowded?

A Yes.

Q How many men -- 100?

A Less than that. This is a small place.

Q 50 to 100?

A I didn't count them -- quite a lot -- men come and go.

Q But there were a lot of men there?

A Yes.

Q And each man signed a separate piece of paper and put it in the window?

A This is what I do and this is what I saw.

Q You never saw them sign any other sheet?

A No.

Q Did you ever see the men line up before the window?

A Yes, you have to be early.

Q Why were they lined up for?

A To sign a piece of paper.

Q A little piece of paper?

A Yes.

Q And every morning for three weeks you signed a little piece of paper and put it through the window. And who

would take that piece of paper?

A The clerks inside -- I don't know him.

Q Was it the same man every day?

A No.

Q Was it Mr. Murphy every day?

A No.

Q Did you talk to Mr. Murphy every day?

A No. I talked to him one time -- that is the time he turned me off.

Q The first time is when you talked to him?

A No, I talked to him twice.

Q Okay. After the first day when again did you speak to Mr. Murphy?

A About two weeks after that -- yes, about two and a half weeks after that.

Q What did you say to him?

A I said to him "What's going on? I need a job."

Q And what did he say?

A He says "Well, to achieve a job, if you want to be a qualified operator you have to have a union book", and I says "How do I go about this?"

He says I have to give him 2000.

I said "What, Man? Are you crazy?"

Q Where did this conversation take place?

A Inside the door.

Q Inside which door?

A You have a small door -- you go through the big door, you come off the street and you go through the door.

Q Were there a lot of men in the hall that day?

A What?

Q Were there a lot of men in the hall that day?

A No.

Q How many men were there?

A A couple.

4-4

Q And you met Mr. Murphy in the hallway?

A Yes -- not in the hallway; at the door.

Q And he asked you for $2,000?

A Yes.

Q To get a book?

A Yes.

Q Did you tell that to your friend?

A Yes.

Q Andwhat did he say?

A And he said "He is crazy."

Q Did your friend have to pay $2,000?

A He didn't have his book then.

Q Was he working?

A Yes.

Q Without a book?

A Yes.

Q What did he tell you to do then -- your friend?

A Do what?

Q Your friend, did he tell you to do anything?

A Well he say I have to try other enterprise, so I says "Man, I ain't going to be bothered." I need a job, so I look in the paper and I see a job where I was qualified for a clerk, and I took it, and I just forgot about it.

Q Now did you report this conversation you had with Mr. Murphy to anyone?

A Yes, I went to -- I went to Joint Apprentice Program on Fulton Street and I told Frank.

Q Who?

A Frank Johnson.

Q Frank Johnson?

A Yes.

Q When was this conversation?

A This was the same year.

Q What did you tell Mr. Johnson?

A I told him -- I said I went down to the union hall and this man asked me for $2,000 and he say "He's crazy."

Q He said you are crazy or he is crazy?

A He's crazy, and that he will try to help me, so I

took a test there, an aptitude test, and I passed the test.

Q You took a test where?

A Up there.

Q At the Apprentice school?

A Yes.

Q Joint Apprentice?

A Yes.

Q On papers -- a written test?

A Yes, and he says "You are sure you can operate this equipment?" And I says "Sure," and he says "Okay, within a week you will hear from us" -- and I got a letter in the mail stating that I have to report at the office eight o'clock that Monday morning.

Q What office?

A Joint Apprentice office, and I went there, and he says, well, he is going to take two of us up to Hawthorne Circle to take a test, the operating engineers test, so we went, and I took the test and I passed the test up there.

Q And how do you know you passed the test?

A The City Engineer, his name was Joe -- I have forgotten his last name.

Q What city?

A New York City Engineer, for Highways.

Q New York City Engineer for Highways?

A Yes. He was the one who give us the test -- there were two of us that went for the test.

Q What happened then?

A And I passed it, and he says they would try to help me, and I didn't get no help, so I just forgot the whole thing.

Q How long was this after you had the conversation with Mr. Murphy?

A How long was what?

Q How long after your conversation with Mr. Murphy was this test that you took?

A It wasn't that long. Everything was happening in the same year.

Q What did Mr. Johnson say -- Frank Johnson say to you about Local 15 and Mr. Muprhy?

A Well, he says, why they have this Joint Apprentice thing going, they are trying to help the minority group as a trade, to get in, so he will try to help me.

Q Did he call the union while you were there?

A No.

Q Was anyone present when Mr. Murphy said to you you would have to pay $2,000?

A Well, men was around but I don't know if they heard the conversation that was going on. He told me that and I

told him he was crazy, and he walked away and left me.

Q When he said to you that you needed a book in the engineers union to get any work, did you tell him that your friend did not have a book and he had work?

A I didn't have to tell him that.

Q But did you tell him that?

A No.

Q Tell me, do you know of any other black men from Jamaica who are working out of the Engineers Union?

A Yes.

Q Do you?

A Yes.

Q Do you know them personally?

A Yes.

Q Can you name some of them?

A Well, the same guy, Derrick and his brother.

Q His brother?

A Yes.

Q What is his name?

A Teddy.

Q And does Teddy have a book?

A Yes.

Q Did he work out of the union before he got a book?

A Well, I can't remember that.

Q How long has Teddy been working out of the union?

A Quite sometime now.

Q Over a few years?

A Yes.

Q Was he working there before August of 1970?

A Yes.

Q Did you tell him about Mr. Murphy asking you for $2,000?

A Yes, I told him.

Q What did he say?

A He say he is crazy.

Q Did he say he never had to pay money to get work?

A I can't recall that because Derrick told me he didn't pay that -- he didn't pay no $2,000.

Q Did he say he paid any money to work?

A Yes.

Q To work or get his book?

A To get his book.

Q That is an initiation fee, isn't it?

A Something like that.

Q But Derrick was working out of the union before he got his book?

A Yes.

Q And his brother was working out of the union before

he got his book?

A Yes, and another friend by the name of Keith.

Q Was he working out of the union, too?

A Yes.

Q Without a book?

A Yes.

Q Did he have to pay any money to the union?

A Well, to achieve his book.

Q Yes. But before that did he have to pay any money?

A I don't know.

Q He never said he did?

A No.

Q Did you got to any law enforcement officer about this money that Mr. Murphy asked you for?

A Well when I came here I told the attorney about what he say.

Q How did you come here? Did someone call you?

MR. DEVORKIN: I object at this point. I think that is quite irrelevant.

THE COURT: There are charges being made here.

MR. DEVORKIN: As to where he came to our attention that is not relevant. I think we are entitled --

THE COURT: I will sustain that, but I am interested in these criminal charges that are being thrown around.

BY MR. BRADY:

Q Did you, Mr. Aikman, ever give anyone a statement, a written statement about the money Mr. Murphy asked you for?

A No. You mean a written statement that I write out?

Q Yes, or that anyone else wrote out?

A Yes.

Q And who did you give that statement to?

(The witness indicates.)

Q Who are you indicating -- Mr. Devorkin?

A Yes.

MR. BRADY: Your Honor, I would like to see that statement, if I may.

MR. DEVORKIN: Those are my notes, your Honor. They are absolutely work product. I took down my impressions of Mr. Aikman's answers -- and I am prepared to back this witness up with third-party testimony.

THE COURT: I am just wondering if steps have been taken in connection with this.

MR. DEVORKIN: Well, those are matters still pending.

MR. BRADY: I would still like to see the statement.

MR. DEVORKIN: There is no such statement, your Honor, except my notes as to talking to Mr. Aikman in my witness question-and-answer notes.

THE COURT: Go ahead.

BY MR. BRADY:

Q When did you tell Mr. Devorkin about Mr. Murphy asking you for $2,000?

A First time I came down here to give a statement.

Q When was that, sir?

A About two weeks ago.

Q About two weeks ago?

A Yes.

Q And you never spoke to anyone from the United States Attorney's office about this prior to two weeks ago?

MR. DEVORKIN: Your Honor, I do object. He has already testified that he did speak to us a year ago. We have gone through this already.

THE COURT: He said --

MR. BRADY: He said two weeks ago.

THE COURT: He is talking about the $2,000 two weeks ago.

4-5

MR. DEVORKIN: That is right. That is the first conversation I had with Mr. Aikman, but he has already testified on Mr. Brady's examination that he spoke with the United States Attorney a year before that. We have been through that.

THE COURT: Well, let us find out if he told the United States Attorney about the $2,000.

T5

Q A year before when you spoke to the United States Attorney, did you tell him, whoever it was -- who did you speak to at that time?

A I spoke to an attorney, I don't remember his name, but he died now of a heart attack. Last year I heard that he died of a heart attack.

Q In the United States Attorney's office?

A Yes. I can't recall his name.

THE COURT: You said that you said that a year ago?

MR. DEVORKIN: There is absolutely no dispute about it. I can't see what the relevance is. I will supply the name.

MR. BRADY: Who did he talk to?

MR. DEVORKIN: John McHugh. He was the only other person in the office.

Q Do you recognize that name?

A Yes.

MR. DEVORKIN: He left the office. If Mr. Brady wants to call Mr. McHugh he is perfectly free to do that.

THE COURT: I am talking about a statement in open court of another crime. You have some responsibility as an attorney here.

MR. DEVORKIN: I understand that, your Honor. I am not trying to hide anything at all. I will reveal all my files and the files of Mr. McHugh to Mr. Brady and I am perfectly willing to supply the names of third parties that Mr. Aikman told that to.

Q Is it Mr. McHugh you spoke to?

A Yes, I think so.

Q Did you tell him about this money?

A Yes.

Q What did he say to you then, Mr. McHugh?

A He just took my statement and he said I will hear from him.

Q Did you sign the statement?

A I think I did.

Q You told him that this had happened in 1970?

A Yes.

Q You spoke to him in 1973?

A 1973?

Q When did you speak to Mr. McHugh?

A About 1971.

Q You haven't heard anything about that until two weeks ago?

A Right.

Q Did Mr. McHugh advise you to go and file charges

with any other agency?

A No.

Q No?

A No, he just said leave it to us. He said to me, "Leave this up to us, you will hear from us."

Q That was the last you heard about it?

A Yes.

Q I wish you could try to recall, if you will, Mr. Aikman, who else was present when you had this conversation with Mr. Murphy where he asked you for $2000.

A As I said, other men was walking around.

Q Were they close by?

A I don't know if they heard.

Q Were they close by to you?

A They were passing. I don't know how close they were, if they could hear. If they heard what I was talking to this man about, I don't know.

Q Did Mr. Murphy ever take you aside or in the outside hall?

A We were talking right at the door.

Q There were people around there, passing by?

A Yes.

Q Tell me exactly now what he said to you.

A He said to me in order to achieve a union book

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I got to give him $2000.

Q Give him $2000?

A Yes, give him $2000.

Q Or did he say pay a fee to the union?

A Give him, John Murphy, $2000.

Q And you didn't respond to that?

A No.

Q What did he say to you after that?

A He walked away because I said, "Man, you are crazy." He walked away. I didn't go back.

Q You didn't report it to anyone?

MR. DEVORKIN: I object, he has testified to who he reported it to.

MR. BRADY: You may call that a report, but I don't.

Q Did you report it?

MR. DEVORKIN: This case has been brought, your Honor.

THE COURT: Is there a criminal case pending?

MR. DEVORKIN: This case has been brought.

MR. BRADY: The government has not even deposed Mr. Murphy, take him and examine him before trial.

MR. DEVORKIN: If Mr. Brady is suggesting that he would prefer me to press criminal charges against Mr.

Murphy, what does it have to do with this case?

THE COURT: I would like to satisfy myself, frankly I am not too satisfied why when a criminal act is committed it is just passed over because it happens to be a civil proceeding.

MR. DEVORKIN: May I respond on behalf of the government, your Honor?

THE COURT: Yes.

MR. DEVORKIN: First of all,it is not clear whether the act of Mr. Murphy could constitute a crime because it is not clear that this was an attempt or an actual completion of a bribery.

Second of all, Mr. McHugh took Mr. Aiken's statement in June of 1972, an affidavit was prepared, it was typed up and it was never signed by Mr.Aikman, and I have third party corroboration that Mr.Aikman made the same statement to other individuals outside of the United States Attorney's office, and I will put these people on the stand.

THE COURT: I am not concerned about this case except probably on the credibility issue. But I am concerned about the fact that this does appear, doesn't appear to be followed up on the criminal side.

MR. DEVORKIN: Maybe there is another time for

discussing that.

THE COURT: Go ahead.

BY MR. BRADY:

Q Mr. Aikman, did you report this to any other law-enforcement agency other than the United States Attorney's Office?

A I can't remember now because I know -- yes.

Q Yes?

A Yes.

Q Who? To whom did you report it?

A I told it to Frank Johnson.

Q Did you go to the police?

A No.

Q The District Attorney?

A Yes.

Q The District Attorney's office you went to?

A Let me think now. Yes, I spoke to a man by the name of Jenkins.

Q Where was that?

A At the District Attorney's office.

Q The District Attorney's office? Where?

A I think on the same building here.

Q The United States Attorney's office?

A Yes. I got to look for my letters. All my letters,

you know. I don't remember his name as Jenkins, but I know he died of a heart attack.

Q Who else did you tell besides Mr. Johnson and someone in the United States Attorney's office? Who else did you tell about Mr. Murphy's request?

A I told my friends on the job.

Q Who?

A My friends on the job.

Q What are their names?

A Al.

Q I don't understand.

A Al.

Q What is Al's last name?

A Reid.

Q What job does he work on?

A On my job.

Q What job?

A Shipyard.

Q Who else did you tell about it?

A Wesley Robbins.

Q Where does he work?

A On my job.

Q Who else?

A A number of people. I told my mother, my

brother, my sister; I told all my friends.

Q Is it possible that you might have misunderstood what Mr. Murphy said to you?

A No.

Q Have you yourself, Mr. Aikman, ever been convicted of a crime?

A Yes, for -- convicted you mean?

Q For a crime?

A Well, I got in a fight on the job and they charged me for third degree assault. That was, you know, basically stay away from each other.

Q Is that all? Any other crime?

A No.

Q Any other arrests? Have you ever been arrested?

A One time.

Q That is the only arrest?

A Yes.

MR. BRADY: I have no further questions.

REDIRECT EXAMINATION

BY MR. DEVORKIN:

Q Mr. Aikman, I show you what has been marked Plaintiff's Exhibit 86 for identification. Do you recognize that?

A Yes.

Q What is it?

A That is my certificate.

Q From where?

A Interstate.

Q Did you show this certificate to Mr. Murphy when you went down to the union?

A Yes.

MR. DEVORKIN: I offer Plaintiff's Exhibit 86.

THE COURT: Received.

(Plaintiff's Exhibit 86 for identification received in evidence.)

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2

Q I show you Plaintiff's Exhibit 87 for identification.

I ask you if you recognize that?

A Yes.

Q What is that?

A That was when I went and took a test.

Q The joint apprenticeship?

A Yes.

Q Is that letter addressed to you?

A Yes.

Q Did you receive that letter?

A Yes.

MR. DEVORKIN: I offer Plaintiff's Exhibit 87 for

identification and I show a copy to counsel for the defendants.

MR. KENNEDY: No objection.

THE COURT: Received.

xx (Plaintiff's Exhibit 87 for identification received in evidence.)

MR. DEVORKIN: I have nothing further, your Honor.

THE COURT: If there are no further questions, the witness is excused.

(Witness excused.)

THE COURT: We will adjourn until Friday at 11 o'clock.

(Adjourned to September 27, 1974, at 11.00 A.M.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Perry McQueen (Resumed)	844	878	925	932
Redus Shorter	934	982	1027	1030
Neville Aikman	1031	1037	1067	

EXHIBIT INDEX

Plaintiff	Identification	In Evidence
85		845
86		1068
87		1069

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

v. 72 Civ. 2498

LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, et al.

September 27, 1974
11:00 a.m.

(Trial resumed.)

MR. DEVORKIN: Good morning, your Honor.

The plaintiff calls Keith Wilson.

K E I T H W I L S O N, called as a witness on behalf of plaintiff, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. DEVORKIN:

Q Mr. Wilson, how old are you?

A 26.

Q Where do you live?

A 99-16 195th Street, Queens.

Q Are you testifying under subpoena today?

A Yes.

Q When was the first time that you had ever had any experience working as an operating engineer?

A Well, 1965 I went into the Job Corps.

Q Where was that at?

A Battle Creek, Michigan.

Q What kind of program did you go into?

A First of all, before I even got into the heavy equipment, I was interested in computer science and then I asked them, you know, what paid the most money, what can I get into to make the most money and they said heavy equipment.

Originally I wanted to go in with this idea but since that was mentioned to me, I got involved in it, so I got involved in heavy equipment.

Q Why did you go to the Job Corps?

A Well, I dropped out of school and I wasn't doing anything. I dropped out in the eleventh grade and my cousin suggested that she had heard about the Job Corps and that would be something I might want to do and she more or less coaxed me and I went into it.

Q What did the program consist of at Battle Creek?

A Well, in the mornings it was skills like social studies, mathematics, stuff like that and in the evening we had the actual operation of equipment and maintenance.

Q How long a program was the Job Corps program?

A The Job Corps was supposed to be for, for heavy equipment, 18 months. But Perry McQueen and myself completed within a year.

Q What kind of heavy equipment did you learn to operate at Battle Creek?

A We started off with tractors, basically learning how to control tractors, going through cones and stuff like that.

Then we advanced to, I think it was the backhoe and then loaders and then once we got into the big stuff, we got into self-propelled scrapers and front end loaders.

Q How often did you actually operate a piece of machinery such as that?

A Well, at the beginning on tractors I think we spent maybe about three weeks on it because that is the first thing, that is the first machine that we were on.

Then the other machines between a month and a month and a half to two months. And then once you got it down, then we more or less reviewed the big equipment like the scrapers and loaders and stuff like that.

Q How long each day did you get a chance to operate a piece of machinery?

A Like say maybe -- it is hard to determine. I would say maybe, let us say, three guys for each machine and from 12:00 o'clock until 5:00 or 6:00 o'clock, you know, three guys. Say maybe about two or three hours.

Q Every day during that period?

A Every day except for Sunday.

Q Did you ever perform any jobs or work on any projects with these machines?

A Machines, yes.

Q What kind of jobs or projects?

A Well, we built a park and we were doing some roadwork at the camp and we did some other roadwork for Kalamazoo, for the town.

Q Did you have any instructors?

A Sure. We had the head instructor in charge of the school; maybe about six or seven other instructors and they were members of the International Union of Operating Engineers in Michigan.

Q Were you told anything about whether the Job Corps program had anything to do with the International?

A Near the end of it they put up some kind of posters or bulletins or something giving the different salaries, approximate salaries of what you would make in different towns, different cities, rather.

That was basically it. Also, there was another poster up there when we were leaving which was during the Viet Nam conflict or whatever. They asked us if we would go to Viet Nam, if we wanted and the salary would be about $26,000 -- that was in 1966 -- that was a great deal of

money then as it is now.

T2fol

(Continued on page 1075.)

T2

Q Well, did anybody ever say anything to you about whether or not it was affiliated with the union or would have any status with the union after you completed it?

MR. KENNEDY: Objection, unless we can have some identification of who said what to whom.

THE COURT: Yes, can we get that?

MR. DEVORKIN: First I want to find out if anything was said.

THE COURT: All right, find out if anything was said.

MR. DEVORKIN: Then I will break it down, if Mr. Kennedy will be patient.

Q Was anything ever said to you about whether the school or the program at Battle Creek was affiliated with the union or you would have any status with the union after you finished it?

A Sure. I don't remember exactly who said it, you know, but I think it was from one of the instructors or from the guy who was in charge, that after we came out that we would be accepted or something to that effect in the union.

Q When was it that you graduated from the school?

A '66.

Q And what did you do after you graduated?

A Perry and myself -- this is Perry McQueen and myself, we came out and we went to a regional office somewhere in New York -- I believe it was down on 66th Street somewhere around there -- it was an office that was set up in New York to place people who were coming out of the Job Corps who came to New York. I believe they must have them in every city.

Q And what happened there?

A Well, I believe the woman -- I am quite sure she did get in touch with the union but exactly what took place I don't know.

Q Did you get any other jobs from her?

A Yes. After she tried -- and I guess to no avail -- she wasn't able to get us into the union or get us to go down or whatever, she got us a job for the summer working for Trailways Bus, washing and cleaning out the buses.

Q And how long did that job last?

A During the summer -- I guess maybe about four months.

Q And when it was over what did you do next to seek work, if anything --

A I went --

MR. KENNEDY: Your Honor, may we have an

mkp3 Wilson-direct

identification as to what year he is testifying to?

THE COURT: I think he said 1966.

MR. DEVORKIN: That is what the witness said.

MR. KENNEDY: I did not hear that.

A I got out of the Job Corps in 1966.

THE COURT: He got out in 1966, so I assume it is the summer of 1966 that he had a ob washing buses.

Q What did you do next, if anything, to seek work, Mr. Wilson?

A Well, I went down to the union --

Q Which union?

A Local -- the International Union of Operating Engineers.

Q In 1966?

A No.

Q What did you do next in 1966 to find work?

A You know, after the bus -- we worked for the Trailways -- I guess we did odd things, you know -- maybe messenger or something like that. I don't know what kind of odd jobs I had but there were none in that line.

Q And after those odd jobs did you do anything else? Did you get work of any kind -- not necessarily operating engineers work.

A I can't remember.

THE COURT: Whendid you first go to the union?

THE WITNESS: '69.

THE COURT: 1969.

THE WITNESS: Yes.

Q Between '66 and '69 what did you do?

A I draw a blank!

Q Did you ever go back to school?

A Yes -- okay, right.

Well, I am just going to take it back a little bit.

When I was in the Job Corps I studied for my high school equivalency test, and I passed it, and I started going to -- well, I didn't start then. They suggested that I went, after the completion of the course, go to Western Michigan University, but I came back to New York. So when I came back, I believe the SEEK program had just opened up then for the City University, and I got into Queensborough Community College. I stayed there for -- between Queensborough Community College and -- well, I am going too quick. I stayed there for, let us say, about a year or a year and a half, and I heard about -- well, I heard the possibilities of getting into N.Y.U. if I had made some good grades, about a 3 or 2.8, something like that, for minorities. So I think I got a 2.8 or 3

up at Queensborough. During that time I had a nervous breakdown, and in the process of trying to get into N.Y.U. -- well, okay, eventually I got into N.Y.U. and got a scholarship.

Q How long did you stay there?

A About a year.

Q When was the first time that you went to the union, Local 15?

A It was after that.

Q Do you remember when?

THE COURT: In 1969.

A About 1969.

Q Do you remember which month?

A Pardon?

Q Do you remember which month?

A No.

Q What did you do when you went --

THE COURT: What was the location?

THE WITNESS: It was located on 15th Street, on the East Side.

Q What did you do when you went down there?

A Well, I took and had my diploma and then the other little sheet which gave you a general idea of the other skills which we learned. I took it down there.

Q Who had given you that sheet?

A Well, it was a diploma that I got from the Job Corps -- a diploma, along with a skill sheet.

Q And what did you do with that?

A Well, I took it down to the hall, down to 15th Street.

Q Who did you talk to down there?

A I spoke to Tom Gerity -- I don't know if his first name is Tom -- Gerity.

Q Tell us exactly as best you remember what happened when you went down there, who you talked to, and what was said.

A Well, first of all, when I walked into the hall I was very nervous, you know, probably due to the fact that there weren't very many black people down there -- in fact, any at all.

Q Was anybody else there?

A Yes, there were white people in there. Then I went to the back room; somebody approached me -- I don't know exactly who it was -- and he said, what was it about, and I showed him the diploma and they pointed to Gerity for me to go up to him, and I showed Gerity the diploma and everything like that, and he looked at it and he said, "Well, you see the hall, the way things are, it is crowded.

Come back in a year's time," or whatever -- yes, "about a year's time," and I said, "Okay," and I walked out.

Q Did anybody ask you about your qualifications as an operator?

A Well, my qualifications were stated on the diploma and on the other sheet of paper that went along with it.

Q Did anybody ask you anything further about your qualifications?

A No.

Q Did anybody ask you or say anything to you about testing you as an operator?

A No.

Q Did anybody say anything to you about signing any lists?

A No.

Q Did anybody say anything to you about getting work from contractors?

A No.

Q Where were you living at the time?

A With my parents.

Q In New York City?

A Queens.

Q Did you ever go back to the hall?

A Yes, I went back to the hall, I would say maybe five or six months later, and --

Q Which year would that be, as best you remember?

A '70-'71.

Q And what happened when you went back to the hall?

A I saw Willie Keenan, and Willie Keenan said to me -- well, something to the effect that it is kind of bad now -- but I had mentioned to him the fact that I was there before and they told me to come back and he said, "Well, you know, if you want to sit down, sit down," so that is what I did.

Q Was anybody else sitting in the hall?

A Yes, there were other men there.

Q About how many, if you remember?

A Oh, I don't know -- maybe 30 or 35 or 40.

Q Do you remember whether they were white or black?

A Yes, at that time they were basically white men in the union, or basically white men in the hall.

Q Did you speak with any of them?

A No. There were a few black guys and I was sitting with them.

Q Did any of the whites speak to you?

A No, not then.

Q Did you sit down in the hall as Mr. Keenan said?

A Yes.

Q And what happened?

A Oh, I sat there maybe for two months.

Q Every day?

A Yes.

Q What would you do every day when you came into the hall?

A Well, on Mondays I would come in and sit down, and everyone would -- let us say around 8 o'clock or 8.30 the delegates would come up with the sheet, and everyone would get up and they would ask you your name and what equipment you operated, and your telephone number.

Q Did they ask you anything else?

A Oh, well -- they would put down on the list, you know -- they knew if you were a permit man or if you were a 15 man or not. There would be a "P" next to your name and a "15" next to your name.

Q Were you able to tell whether there was any order in which you were put on that list?

A The order was the order in which you got up on the line.

Q And what time would you come into the hall on Monday mornings?

A Well, I would try to get there at least by 7.30 -- 7.30.

Q Do you remember how many men were sitting in the hall at that time?

A At that time, 7 or 7.30, there wasn't that many men in the hall.

Q At the time the man came up with the list in the hall, do you know how many men there were?

A Yes, there were more men in the hall than when I first got there, sure.

Q Roughly how many men would you say?

A Well, let's say there were 20 per cent when I was there, and the rest of them came later, up until 8 o'clock.

Q Up until 8 o'clock. At 8 o'clock how many men would be in the hall?

A Okay. Let's say there were 20 men in the hall when I was there. Let's say there were 60 or 70 men by 8 o'clock.

Q Aside from Mondays what would you do the other days of the week when you came to the hall?

A Oh, I would sit down. I would sit down.

Q After you signed the list on Mondays what would you do?

A After I signed the list on Monday?

Q Yes.

A I would sit down.

Q On Monday what would you do?

A On Monday?

Q Yes, after you signed the list, what would you do?

A I would sit back down in my seat.

Q Now, in those two months did you ever get any work?

A No, not until the time I went out with Mac Asphalt and got a job with Mac Asphalt running a front end loader.

Q How long did that job last?

A Maybe about a week.

Q When it was over what did you do next?

A Came back to the hall and sat down.

Q How long did you sit before you got another job?

A I don't know, maybe a month.

Q What was your next job?

A Conduit foundation on a pneumatic hammer to break up the concrete on the back of -- a bucket on the back of a backhoe. It is called a hop tow.

Q Did you run that?

A Yes.

Q How long did you run that?

A About two weeks.

Q After that what did you do?

A Sat back in the hall again.

Q During these times you were sitting in the hall could you tell us whether other people were getting assigned work?

A Sure.

Q How could you tell that?

A They get up and get called by the delegate by name or tell him, come, give him a ticket.

Q What do you mean, a ticket?

A A piece of paper, they write down the job and the location of the job.

Q During those periods of time when you weren't getting work, did men get sent out frequently or infrequently?

A Men going out pretty frequently.

Q Different men or the same men?

A Let us put it this way: some men sat in the hall for a long time. There were some men who went out quite frequently. Men would be sent out and I was sitting and they were sent out and I was sitting there and they came back and I was still sitting there.

Q Were these men white or black?

A Basically white.

Q After you got finished with this conduit foundation job you said you came back to the hall?

A Yes.

Q How long did you sit in the hall before you got your next job?

A I think after that I had a well point job. I

am not sure.

Q Do you remember where that was?

A In Coney Island.

Q How long did that last?

A Two days.

Q What did you do after that was over?

A Came back to the hall.

Q How long did you sit in the hall before your next job?

A I think it was a while.

Q How long would a while be?

A At least two months.

Q Did you ever got a job that lasted more than a week or two?

A That was my next job.

Q What was that?

A I worked on the World Trade Center.

Q What did you do on the Trade Center?

MR. KENNEDY: May I ask if this is still 1970 or 1971?

THE COURT: Which year is this, do you remember?

THE WITNESS: Between 1970 and 1971.

Q What did you do on the World Trade Center job?

A Well points.

Q What did you do on the well point job?

A I had to hold the bulldozer while the crane would bang the hammer on the tubing that went into the ground.

Q How many other men were working with you on this well point job?

A Four men and the foreman.

Q Do you remember whether they were black or white?

A They were all white.

Q Was the foreman black or white?

A White.

Q Did you get any overtime on this well point job?

A No, but this is the longest job I ever had.

Q How long did it last?

A Two months or two and a half months.

Q During that two and a half months had anybody from the Union ever said anything about --

A No.

Q Let me finish the question.

A I am sorry.

Q About getting a book?

A No.

Q Did you ever ask anybody about getting a book?

A No.

Q Did the master mechanic say anything about getting a book?

A No. There was no master mechanic on that job.

Q When the World Trade Center job was over what did you do next?

A I came back to the hall and I sat there.

Q Did you ever attempt to learn how to operate or to operate Local 14 equipment?

A Yes. That was when I went out to the school and I asked Danny Murphy, well --

Q Which school was that?

A The International Union of Operating Engineers.

Q Which school?

A Well, both locals are combined basically on the school.

Q What did they tell you when you went out there?

A I went out there for the express purpose of learning how to operate cranes and other machines that came under the 14, which I never operated in the Job Corps.

Q Whom did you speak to?

A To Danny Murphy.

Q Do you remember when that was, approximately?

A That was after the Trade Center job so it must

be in 1971 -- 1971, yes.

Q What did Mr. Murphy say to you and what did you say to him?

A Well, this is finally how it went. I told him I was interested in learning that equipment and if he could get me over there to learn. He saidhe would see what he could do.

Then he spoke to, I believe, Jack Stanton was running the school, I believe.

Q Which school?

A 14 school, and there was some sort of agreement reached between the two of them and the agreement is that I could attend.

Q Did you ever attend?

A Yes.

Q How did that actually happen?

A Well, I would come in on Saturdays and at that time the classes were basically broken up betwen I think around 9:00 or 8:00 o'clock to 12:00 and from 12:00 another group or if you want to stay over, from 12:00 to around 3:00, something like that.

Q What kind of equipment did you learn to operate at the 14 school?

A Well, a guy derrick, a Northwestern backhoe, a

Procaine backhoe, American clam bucket.

Q Did you ever learn anything about a roller or a compressor?

A I was on a roller and we had, at that time, discussed maybe once or twice about the -- a couple of times about the compressor.

Q Did you ever ask to learn how to operate a crane used to hoist?

A Then they brought a bigger crane out there, a P & H, and basically the men who were getting on that were basically men in training -- I am sorry -- men who were out in the field, I guess book men or whatever.

I believe maybe I got about one day in the seat or something like that.

Q Did you ever ask to have more days?

A No.

Q At this time were you a member of Local 14?

A No. What happened was that I filled out an application.

Q With whom?

A Down at 15th Street, I filled out an application, some kind of application. Asked me about my skills and name and address.

Q Do you know which local it was?

A 14.

Q Did you ever see that application again?

A No.

Q While you were out at the Local 14 school were there other men out there with you?

A Yes.

Q Did you see any black men out there?

A I think I was the only black at that time.

Q Do you know if there were any other men who were not Local 14 members?

A Yes, there were. I know one young fellow was -- I consider myself a young fellow too, about my age, and we used to talk and he didn't have a book at the time.

Q How long did you stay at the Local 14 school?

A Eight months, I would say eight months to eight and a half months.

Q While you were at the Local 14 school did you keep going back to the Local 15 hiring hall?

A That is where the whole controversy started --

Q How long did you go back to the Local 15 hiring hall?

A What happened was that -- I would like to answer this question but I have to bring out something more.

I moved down to Eighth Street in the Village,

which it is about 15th Street, that is a couple of blocks I could be near the hall so I could be first down there.

Q Up until that time where had you been living?

A In my parents'.

Q Did you keep going back to the Local 15 hall?

A Yes, I kept going back and I signed up every morning. I wasn't getting any work.

Q How long a period of time went by while you weren't getting any work?

A Eight months.

Q Was anybody else shaping the hall during that time?

A Sure.

Q Every day?

A Sure.

#2 Q Were they getting work?

A Sure.

Q Different men or the same men?

A As far as I am concerned at one point when the High Bridge Turnel came into Westchester I was the only man left in the hall.

Q Did you ever complain to anybody about that?

A I didn't complain and I think the basic reason was thatI didn't want any static, I didn't sit down there

any longer.

Q Did you ever talk to Local 14 officials about getting work as a Local 14 man?

A Yes. I spoke to Jack Stanton about the possibilities of shaping the hall, down at the hall, and he said basically you had to have a license and I said, well, I came back and saw him, spoke to him a couple of times and then once he said to me -- this was near the end of the eight month period.

He said to me maybe I could go and speak to Scoop Walker and I went down and--

Q Do you know who Scoop Walker is?

A One of the delegates. I don't know if it was him or not -- I think it was him. I went down and I told him basically I was out of school and he said, "Oh, my God, I didn't know you were sitting all this time, you were sitting for us."

Q Was Mr. Walker a 14 or 15 delegate?

A 14.

Q Did he say anything else besides that?

A Well, yes. He said he didn't know I was sitting here and then he said, "Wait a while and we will take care of it."

So I waited maybe a week, two weeks and I didn't

get anything and at that time I guess my stomach was up to my back so I just left.

Q Do you remember approximately when that was?

A Around the beginning of 1972.

Q While you were going to the Local 14 training school did you ever get involved with any kind of written classes?

A Yes.

Q When was that?

A Near the end of the eight month period.

Q Tell us what happened.

A Well, I spoke to Jack, Jack Stanton and I asked him -- I don't know exactly how it went back and forth --

Q Was he still running the Local 14 school?

A At that time, yes.

Q Continue.

A I don't know exactly what the language was, but I basically, it went like this, something to the effect, I don't know where I learned about the school, who I learned it from, but I learned about it and basically he said, well, something to the effect I would get my name on the list, and I got my name on the list.

Q How did you get your name on the list?

A I called Betty Dowling --

Q Who is Betty Dowling?

A A secretary for 14, I believe.

Q What did you say to her?

A I don't know if I said anything to her or whether Jack spoke to her or not.

Q Do you know what kind of list it was?

A People who wanted to practice up on the written test, wanted to learn the written test.

Q AFter you got on the list did anything ever happen?

A Yes, I started going down to 15 at that time, the school was on 15th Street, for a couple of days.

Q How did you find out to come down to 15th Street?

A I got a letter.

Q Do you know who it was from?

A From the union.

Q Which union?

A 14.

Q Was this a class to practice for the license? You were talking about when you say a written test. Which written test?

A A written test for the City of New York.

Q For the crane license?

A For the crane license.

Q After you got this letter from the union did you go to any classes?

A Yes. I went to about two or three classes.

Q What happened at those classes?

A Well, he spoke about the different equipment and different cable strengths and a whole bunch of things involved with the test.

Q When you say classes, were they on 15th Street or where on 15th Street?

A At the hall.

Q Did you have to pay anything for those classes?

A No.

Q Do you know whether anybody else paid anything for th classes?

A No, not at that time.

Q Let me ask you one thing. When you were going down to the hall, the Local 15 hall, and not getting any work, did you ever go out to the training school on a day other than a Saturday?

A Sure. During the time, I guess the eight month period I wasn't getting any work, I would call up Jack Stanton, at the time a master mechanic for Kennedy Airport, and I would call him up and say, "Jack, you know there is

nothing doing today. Is there anybody who might be able to come out and show me how to operate the equipment?"

At that time he would say yes or no or call me back a little bit later on or I would go out.

I think I would go out approximately three days out of the week or four days out of the week, I would get down there and this continued for eight months.

Q Did you go out there alone or was there somebody else there for you?

A There would be somebody out there to operate and show me a few things.

Q When you stopped going to the hall some time in 1972, what did you do to obtain any work, if anything? Did you have another job in the meantime?

A No. At that time I started getting into the camera thing, the film business which is what I studied at NYU.

Q What did you do?

A I heard about the Third World Cinema starting.

Q What was that?

A A program that produces black productions, that has private finances and government finances and, by the way, they just made a picture.

Q What did you do to get work from them?

A Well, I wrote them a letter, sent my qualifications telling that, you know, I had attended NYU and what courses I took, etc.

And then I waited a little while, they called me down and I started working on I think -- I think I worked about ten or 15 films made in New York.

Q Working as an apprentice?

A An apprentice, in conjunction with Local 644.

Q Did you ever get a book in Local 644?

A I have a book in Local 644.

Q When did you get that?

A It has been a year now. I got it in August, around August of 1973.

Q How long had you been a cameraman apprentice before you got your book?

A One year.

Q Did you ever come back to the Operating Engineers, either Local 14 or 15, to seek work?

A Sure.

Q When was that?

A September.

Q Which year?

A Same year.

Q 1973?

A Yes.

Q Whom did you speak to?

A Well, actually what happened was that I went down and I spoke to Don Raphael who is, I think, a director of the recruitment and training program, RTP. I got together with him and he knew the whole story and --

Q What do you mean, he knew the whole story?

A I was talking to him in between periods of time I wasn't working during the eight month period.

I talked to him and was telling him what was going on and so forth and so on. So he had an idea of the story, so I began to talk to him some more about it.

Q Was he white or black?

A Black.

Q What kind of organization is RTP, if you know?

A Part of the A. Philips Randolph Institute which I guess is partially government or government and foundation support.

Q Do you know what they do?

A Yes.

Q What do they do?

A Try to get minorities in the building trades.

T#4 fol

(Continued on page 1102.)

T4

Q And what did you and Mr. Roffles do, if anything?

A Well, I came down and I spoke to him about the problem I was having -- I sat down in the hall, all during that time, and, as I said, before he knew about it. We discussed it again, and I was pretty mad at the time because I had just gotten married, and so forth and so on, and I came back and I spoke to him and he set up a meeting -- I don't know who he called downtown but he set up a meeting. And we had a meeting at 14th Street and Ninth Avenue.

Q With whom was this meeting?

A It was with the delegates of Local 15.

Q Did you go to the meeting?

A Yes.

Q Did Mr. Roffles go to the meeting?

A Yes.

Q And what happened at that meeting?

A Well, I went in to the meeting and I sat down. I was pretty upset and I was in -- I remember making one particular comment at the time. I said -- well, before I get to that -- you know, I was talking and telling the others -- reminding them basically that I sat in the hall for that eight-month period, and I brought in my Job Corps diploma again and I showed it to them, and they talked

about it, and I did make, as I said, one comment, to the effect that I was coming down to this union before everybody in this room -- meaning the delegates, except Mr. Murphy.

Q What do you mean "everybody in this room"?

A What I meant by that was, it was a remark which came out of me in anger -- it was a slight remark, more or less, because most of the delegates, you know, that are with the union weren't there when I was there. When I was there it was Keenan and some other people who were in charge of the union, so I don't know how it came over, how they felt about that.

Q What did they say after you made those remarks?

A Nothing -- you know, there was nothing said.

Q Did Mr. Roffles say anything?

A During the conversation -- I can't remember exactly what took place -- we just talked, and I discussed the fact that I sat in the hall during that eight months and I didn't get any work.

Q Did you tell them that you had been at the Local 14 school?

A Did I tell who?

Q Well, tell any other delegates that you had

been out at the Local 14 school?

A They knew.

Q Did they say anything about your being at the Local 14 school?

A No.

MR. KENNEDY: Your Honor, may I have an identification as to whether any Local 14 delegates were at that meeting?

THE WITNESS: No.

Q Mr. Wilson, do me a favor and answer my questions; right?

A Okay.

THE COURT: Why don't you ask him the question?

MR. DEVORKIN: Well, I thought Mr. Kennedy would have his opportunity on cross-examination.

THE COURT: Yes, I guess that is right.

Q Did you stay in the meeting the whole time?

A No. What happened was after I gave them my piece, so far as what took place, I left the room and sat outside in the next room, and the delegates and Dan Roffles had a private meeting.

Q Did you come back into the room ever?

A Yes, I came back into the room.

Q And what happened?

A And I do remember part of the conversation of what was said before -- I said to them basically, "Look, what I want is a book. I want a union book. I want security. I am married and have a kid now. Before it was the fact that I didn't have nothing, the eight months didn't kill me. It just meant that I didn't eat that much, but now I have a wife and a kid and I want a book."

So when I came back, Dan Murphy said, "Well, Keith, maybe you need a little bit of practice because you have been off the machine for a while. Go out to the school and we will give you work a couple of days a week," and I agreed to that, because I saw some light so far as getting a book.

Q So what did you do?

A That is exactly what I did. I went back to the hall -- I started back -- I began going out to the Local 15 school.

Q At this time between yourself, Mr. Roffles and the delegates, will you tell us the names, as best you remember, of each of the delegates that was present?

A Frank Guma, John Murphy, Dan Murphy and Tom McGuire, Jr.

Q Anybody else?

A And Dan Roffles -- he isn't a delegate.

Q Had you ever gone to the Local 15 school before?

A No, never.

Q How frequently did you go to it at that time?

A At which time?

Q When you were told to go out there.

A I started going pretty -- I used to go every Saturday.

Q Did you also go to the hall to look for work?

A Yes, I went to the hall just about every day.

Q Did you get any work?

A I think at the beginning, the first week, I got a week and then after --

Q When is "the beginning,"if we can pin down the date as best you remember it. Would this be 1973 still?

A Oh, yes, it would be '73, after September -- it would be after September.

Q Some time at the end of 1973?

A Yes, I think it was in October, November.

Q Now, since that date,besides that one week work, at the beginning, did you get any other work?

A I got a few days here and there.

Q What is "a few days"?

A Let's say that the first month after I left the

meeting I got a little work -- one day. I got work through John Murphy -- Dan Murphy, yes, on a well point in College Point -- that was for a week.

I came back and I got a job from Tommy, Jr. -- that was for about two months -- two months -- no, that was for about a month and a half on the Second Avenue Subway.

Then after that, poof! -- that was it.

Q When did that "poof" happen?

A Right after the Second Avenue job, so I figure from the point of October, November, let us say -- I went up to November, approximately November.

Q And from November until now how much work have you been getting from the union?

A Well, I could practically give it to you. After I sat down for a while Tommy, Jr. gave me another job for two days on the Second Avenue Subway again, then I sat down -- I sat down --

Q How long?

A Let's say from December to January to February -- I must have gotten maybe a day or two days.

Q Do you know whether anybody else who was sitting in the hall got work?

A Yes, people who got work.

Q White or black?

A White, and a few blacks -- mostly white.

Q And after February what was your work situation like?

A A couple of days.

Q Have you ever made an attempt to go back to Local 14, either to school or the written classrom work?

A Yes.

Q When?

A About a month ago.

Q And what did you do? When you say you made an attempt, what did you do?

A Well, I spoke about the possibilities of, you know -- because I wanted to take -- I wanted to get my license, and he said, "Well, there is a class starting up."

Q When you say "class," again you mean the class for the written test?

A Yes.

Q And what did you do and what did he do, if anything?

A Well,he said that he would try to get in touch with somebody to get my name on the list.

Q Did that ever happen, if you know?

A Well, what happened was I called back the same

woman --

Q That was Mrs. Gowan?

A Yes. -- and she said to me, well, my name wasn't on the list but she had remembered me from -- from the first time I was there, and she said, you know, she remembered my name, and she said, "Well, the class, they are starting class at such-and-such an address and see, you know, such-and-such a person" -- I think his name was Mahady.

So the first week I did not go to the class. The second week I did go, and I started, you know, learning about the equipment -- I mean learning for the test.

Q Did you have to pay for that class?

A Well, they said there was a fee of about -- I think it was thirty-five or forty dollars.

Q How many other people were in the class?

A About 25 or 30.

Q Do you know how many are black?

A Three, including myself.

Q Do you know whether Mr. Mahady is a member of Local 14?

A I would assume that he is -- I would think so.

Q Do you know whether the other people in the class are members of 14 or not?

A Well, I don't think they could be members of 14 if they were going for the engineers test.

Q Have you ever seen any of their books?

A No.

Q Do you know whether they belong to 15?

A No, I don't think I saw anybody down there from 15.

Q Are they young or are they old,or both?

A They are both.

Q When you say "young," how young is young?

A My age.

Q Have you ever had any conversations with any officers of either Local 14 or 15 about this case?

A Oh, yes.

Q When was that?

A Well, one Sunday I was talking with Jack Stanton.

Q When was that?

A He said, "Go and tell the truth."

Q When was that?

A About two months ago -- a month ago.

Q Did you ever speak to anybody from 15 about the case?

A Yes. I spoke to Dan Murphy out at the school, and he said to me -- well, basically, you know, it is for

14, that it is not basically for 15.

Q What is not basically for 15?

A That the case is not basically for 14 -- I mean 15; it is basically for 14.

Q Just for the record, Mr. Wilson, what is your race?

A Black.

Q Have you ever turned down a job that a union officer has given you?

A No.

Q I am sorry?

A No.

Q Have you ever seen a black person turn down a job?

A No.

Q Have you ever seen a white person turn down a job?

A Yes.

Q How do you know they are turning down a job?

A Because the delegate would come up and offer him a job and the guy wouldn't -- he would go back and sit down, and then he would call somebody else.

Q Now during the time that you had experience with Local 15 and 14 -- I guess that is 1969 to the current

date -- how many times would you say you have been sent out as an operator, to actually operate a piece of machinery?

A About five or six times.

Q And the rest of the time?

A Well point.

MR. DEVORKIN: May I have the Court's indulgence for a moment?

(Mr. Devorkin examines.)

MR. DEVORKIN: I have nothing further.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Wilson, you know there is a difference between Local 14 and Local 15, do you not?

A Yes.

Q Now, when you first started to go down to the day room on 15th Street, you were talking to Local 15 delegates, were you?

A Yes.

Q Did you ever talk to any Local 14 delegates?

A When I first started coming down there?

Q Yes.

A No.

Q Prior to 1971 had you ever spoken to any Local 14 delegates?

A No.

Q Okay. There came a time in 1971, Mr. Wilson, when you went out to JFK; isn't that correct?

A Right.

Q You saw Mr. Danny Murphy when you first went out there, and Mr. Danny Murphy is the business agent for Local 15; is that correct?

A Right, and also he runs the school, I think.

Q Now did you go out to go to the Local 15 school?

A Did I come out to go to the Local 15 school?

Q In 1971.

A No.

Q What were you going out there for?

A I went out there to ask Danny Murphy if I could learn how to operate a crane.

Q And Mr. Murphy told you that Local 15 had no jurisdiction over cranes, isn't that correct?

A No, he didn't.

Q What did he say?

A He spoke to Jack Stanton.

Q Did Mr. Murphy tell you why he spoke to Mr. Stanton?

A No, he didn't tell me.

Q Now, when you went over there, did you ever talk

to Mr. Stanton on the first day that you were out there?

A I met him.

Q Did you talk to him, sir?

A I think there were words passed -- greetings or whatever.

Q Isn't it a fact, Mr. Wilson, that you told Mr. Stanton that you would like to learn how to operate 14 equipment?

A Probably that was part of the conversation.

Q Didn't he tell you at that time that ordinarily you had to be a licensed engineer and a book man to work out there?

A No.

Q He did not?

A No.

Q Okay. You first started to work with a Northwestern backhoe, is that correct?

A No.

Q No?

A No. I started working with an American Crane -- "American" is the name of the company.

Q And was there an instructor on the crane?

A Yes.

Q Did he tell you what to do?

A Yes.

Q Did he treat you politely?

A Yes.

Q Did Mr. Stanton treat you politely?

A Yes.

Q How long did you work the first day?

A How long did I work the first day?

Q Yes, at the school.

A At the school?

Q Yes.

A Between -- I think it was about a half a day or it could have been a day.

Q Did anybody try to bump you off the machine?

A No.

Q Okay. Did you inquire about going back the next week?

A I don't know whether I inquired or not. I think it was implicit in the conversation.

Q With Mr. Stanton.

A If there was conversation between us, I think that was understood, yes.

Q And did you go out the following week?

A Yes, I continued going out for eight months.

Q And did you have any conversations with Mr.

Stanton during that period of time?

A Yes.

Q Isn't it a fact, Mr. Wilson, that you told him that you would like to obtain a license from the City of New York?

A Yes.

Q Okay. And isn't it a fact that Mr. Stanton told you that he would try to help you as much as he could? Isn't that so?

A Well, you know the way -- how you are putting it, I don't believe -- no, we never had a conversation like that.

Q I see. Did he let you operate the equipment out there?

A Sure.

3 Q Were there Local 14 book men out there, sir?

A I believe there was, yes.

Q And except for that one other person that you described, you never saw anybody that wasn't a book man out there, did you -- to the best of your recollection, Mr. Wilson?

A If you put it that way, yes.

Q And the other young man, was he white or black, sir?

A He was white.

Q And was he trying to obtain a license?

A Yes.

Q And did you and he have discussions about that?

A Yes.

Q And do you know his name, sir?

A No.

Q Okay. And how long was he out at the school with you?

A Well, he was out as long as I was -- almost a year.

Q And during this period of time were the instructors helpful to you, were they?

A Everybody out there at 14 was courteous to me -- okay?

Q I just want to find out --

A You asked me the question twice.

Q During the 18-month period that you were going out to the Local 14 school you were shaping the day room, were you not?

A Yes.

Q During that eight-month period did you ever speak to any other delegates from Local 14 --

A No.

Q -- about getting a job?

A No, I didn't.

Q Now, there came a time at the conclusion of that eight-month period or thereabouts that you spoke to Mr. Stanton about obtaining a job in Local 14's jurisdiction, is that correct?

A Right.

Q And he referred you to Mr.Walker, is that correct?

A Well, before then he mentioned to me -- well, you know, that book men -- something to the effect that his hands were more or less tied. I don't know exactly what the language was, but now that you are getting back to this time that you want to talk about, yes -- he said the possibilities of going down, speaking to, I think it was, Mr. Walker.

Q And Mr. Stanton had previously told you the requirements of a license, had he not, sir?

A Right.

Q Now, when you spoke to Mrs. Gowan the first time, isn't it a fact that you were inquiring about taking the City license test, sir?

A I don't follow you.

Q Well, you had a conversation with Mrs. Gowan

at the Local 14 office, isn't that correct?

A Yes.

Q The first time?

A Yes.

Q And isn't it a fact that you asked her about the City license test?

A That I asked Mrs. Gowan about the City license test?

Q Yes.

A I don't remember that.

Q Did you ever pick up an application for the City license examination, sir?

A Yes.

Q From Local 14?

A Yes.

Q And who told you to go to Local 14 to pick up an application?

A Did I pick up an application for what?

Q For a City license application.

A From Local 14, no.

Q Never?

A I went down there on -- the City Personnel Office and picked it up.

Q And who told you to go down there?

A Maybe somebody told me -- somebody in Local 14 told me.

Q Could it have been Mrs. Gowan?

A I don't know.

Q Now, you were talking about attending classes --

A Yes.

Q -- for which there was no charge.

A Yes.

Q And you are presently attending classes, is that correct, sir?

A Yes.

Q Where are those classes held?

A Which classes?

Q The class right now.

A The classes are uptown in the Bronx.

Q In somebody's house?

A No, in The Little League.

Q And who runs those classes?

A Mahady, I think his name is.

Q Do you know whether Local 14 has any connection with this class?

A I am under the impression that they don't have any connection with this class that I am taking now -- I don't know.

Q Okay. Do you know whether or not they had any connection with the classes that you previously attended?

A Well, it was given in the 15 -- it was given in the hall -- in the union hall; I would assume that they did.

Q Well, who conducted --

A All right, let me answer your question. I spoke to Jack Stanton. Jack said, "We don't have anything to do with the school, unless the men get together and work it out" -- that is what was said to me the other day, so far as this class now.

Q Now let us go back to the previous class -- that is the one that you attended for a couple of weeks I believe?

A Yes.

Q And that was held in Local 14-15 --

A Union hall.

Q -- union hall?

A Right.

Q And who conducted those classes, sir?

A If you know, I will agree with you.

Q Does the name Mr. Dengle ring a bell?

A Yes.

Q Excuse me if I asked you this question before:

do you know whether or not Local 14 had any connection with that particular class?

MR. DEVORKIN: Your Honor, could we define "connection" at this point?

MR. KENNEDY: I think the word is perfectly clear.

MR. DEVORKIN: What does he mean by "connection" -- paying for? I mean, it could mean anything.

THE COURT: They conducted it, the people giving the course or using their facilities.

MR. DEVORKIN: Is that what Mr. Kennedy means?

THE COURT: If you want to spend some time going into "connection" --

MR. KENNEDY: No, I just wanted this witness's best recollection about the connection.

THE COURT: Ask him what he means by "connection." If he knows what you mean, that is all right.

A Sir, I was going to ask, what do you mean by "connection"?

Q Okay. Were there union delegates present at those classes?

A No.

Q Is Mr. Dengle a delegate?

A No.

Q Was it compulsory to go to those classes?

A No.

Q Did you pay anything for those classes?

A Dengle's class? No, I didn't pay for any class.

Q Okay. Now except for that one time that you went to speak for Mr. Walker, have you ever spoken to any 14 delegate about getting a job after that time?

A After the time that I spoke to Mr. Walker?

Q Yes.

A No, I left immediately after that -- two weeks after that I left.

Q You left the hall?

A I left the hall because I sat there for eight months and I didn't get any work.

Q That is when you were talking to the delegates of Local 15, isn't that correct?

A Pardon?

Q I say, that is when you were talking to the delegates of Local 15?

A I was talking to the delegates of Local 15 -- when?

Q During that eight-month period?

A No, I didn't talk to them during that period.

Q Did you ever talk to any delegates from Local 14 about getting a job during that eight-month period?

A Yes, I spoke to Scoop Walker.

Q Scoop Walker,and nobody else?

A No, that was it.

Q And it was at the conclusion of that eight-month period that you spoke with Mr. Walker for the first time, isn't that correct?

A Yes.

MR. KENNEDY: I have no further questions.

CROSS EXAMINATION

BY MR. BRADY:

Q Mr. Wilson, if I may go back to some of your earlier testimony, you attended the Job Corps in '65 to '66, and do you recall what month in 1966 you graduated from the Job Corps Program, roughly?

A Can I just say something to you?

Q Surely.

A So far as dates are concerned, I can only give you what is in here (indicating). I can't give you any more.

Q Okay. You spent a year down there?

A In the Job Corps?

Q In the Job Corps.

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A Yes.

Q And was that entire year spent on engineering equipment?

A Yes.

Q When you said you worked with equipment you said that you worked on a park?

A We built a park for the -- for the trainees. There were other trainees there. Our trainees was just one trade, so we built a park, and built the roadwork -- it was an old camp, an old Army camp, and roads had to be built, and we did all the work.

Q Were you working on new roads?

A New roads and existing roads. We widened them, and things like that.

Q What equipment did you work with on the park?

A In the park.

Q Yes.

A I think I ran a dozer -- a dozer and a loader.

Q What were you doing with the dozer, if you recall?

A Pushing dirt.

Q How about the loader?

A Scooping up dirt from the hill.

Q And on the road -- excuse me, withdrawn.

How long did you work on that park?

A You are getting into times. I don't particularly remember. It was for a while -- let's say maybe about two or three months.

Q And then you worked on the road. What kind of work did you do on the road?

A I think one day I ran a self-propelled scraper and then I ran a loader.

Q Did you also run trucks, dump-trucks?

A Yes, tandem dump-trucks.

Q And this was some time in 1966 or after you came to New York?

A '66.

Q And that is the time when you started to work with the Trailways.

A Yes.

Q And you said you went to a regional office before you got that job. Was that a Job Corps regional office?

A Yes.

Q It wasn't an engineer's regional office?

A No.

Q How long did you work for Trailways?

A A couple of months -- the summer -- maybe about three or four months.

Q Did this bring you to the end of 1966, and you are now in 1967?

A It brings me to the end of -- let me see, '66, '67 -- yes, about the end, I guess.

Q Okay. And then what did you do for the next few years?

A The next few years until when?

Q Well, let us say until 1969.

THE COURT: He testified he went to school.

THE WITNESS: Right.

Q And you were working, you said -- you did odd jobs?

A I did odd jobs. I worked in the library, I worked in the bookstores, something like that.

Q Did you attempt at that time to work in construction at all?

A No.

Q Beg pardon?

A No.

Q And when you went to -- were you going full-time to school, Mr. Wilson?

A Well, it depends on what you call "full-time." I was taking a full load of credits.

Q You were going daytime?

A No, I was going in the evening, but I was carrying a full load of credits.

Q And in N.Y.U. for a year were you also going evenings or days?

A Days.

Q You went into the SEEK program for about a year or a year and a half and after NYU for a year?

A Yes. Altogether I would say approximately two years to two and a half years.

Q So this is 1971 now, correct, before you had gone down to the union?

A No, 1969.

Q Is this when you first went to the union?

A When?

Q 1969?

A 1969?

Q Yes.

A Yes.

Q At NYU is that where you studied the cinema?

A Yes.

Q Did you start in to work in that field at all?

A Did I start to work in that field?

Q Yes.

A No.

Q Did you study in this field?

A I was in school.

Q But not with Local 644?

A No.

Q Wher was it that you first went down to Local

15 that you testified to?

A 1969.

Q Do you recall what time of the year that was?

A No.

Q Then you came back about five or six months later?

A Yes.

Q You saw Mr. Keenan?

A Yes.

Q At that time you said there was basically white men in the hall, do you recall saying that?

A Yes. Pardon?

Q Do you recall saying that?

A Yes.

Q Did you see any black men at all?

A Maybe I saw one or two.

Q But mostly white men in the hall?

A That was in the hall. I don't know about how many men were in the union. I am talking about in the hall.

Q I'm not asking you about the union but the hall.

A Yes.

Q What were those men there for, do you know?

A Looking for work.

Q Right. How long did you stay there before you

got some work?

A About two months.

Q Was that the Mac Asphalt job?

A Yes.

Q On a loader, was it not?

A Yes.

Q This is in 1971 now or 1969, still in 1969?

THE COURT: We have been over this.

Q Or 1971?

A I would say it was around 1970.

Q You continued to work out of the hall sporadically?

A Sporadically, I would say, yes. Very sporadic.

Q The Trade Center job, when was this job on well points?

A It was around 1972.

Q 1972?

A Yes.

Q During this time when was it that you spent the year with Local 644?

A 1972 to 1973, August.

Q Were you working out of 644 then?

A No, I was working. I was an apprentice cameraman working on films in New York.

Q That is what you studied in school. Is there any reason why you stopped doing this type of work, Mr. Wilson?

A I never started doing that.

Q What were you doing as an apprentice cameraman?

A I was learning.

Q Is there any reason why you dropped the apprentice program?

A I never dropped out. I have my book right now.

Q You are not working as an apprentice cameraman, are you?

A No.

Q You aren't working as an apprentice cameraman?

A Not now, no.

Q Did you then stop doing this work at some time?

A Yes. I follow what you are saying. I stopped working as an apprentice cameraman around August of 1973.

Q August 1973?

A Yes.

Q Is there any reason why you stopped doing this work, the cameraman work?

A Because I got my book. That was the end of it. I got my book.

Q During this period of time, you say you got your

Q Are you still attempting to get work out of 644?

A What I am is an active member of Local 655. This is a little bit different than Local 15. I am a free lance cameraman at the moment.

Q Are you still attempting to get work?

A I am still a member.

Q Will you accept jobs from 644 if you get some?

A So long as I am in Local 14 or 15 I will not accept any work from Local 644.

Q When you were working as an apprentice for 644 --

A Yes.

Q -- did you have to put in a specific number of hours to obtain that book?

A No, sir.

Q During this time did you ever return to Jamaica?

A For a little while.

Q How long were you in Jamaica?

A Two weeks.

Q When was that?

A Just shortly after I left.

Q Left what?

A Left the hall, before I got into the program.

THE COURT: Were you born in Jamaica?

book in Local 15?

A I got my book in Local 644, International Cameramen.

Q I am sorry, I misunderstood.

Is there any reason why you are not using your book in Local 644?

A I didn't say I wasn't using it.

Q Are you using it?

A I was called for a few jobs, yes.

Q How many jobs were you called for in 1973?

A For what, cameraman union?

Q Yes.

A In 1973?

Q Yes.

A I got called for a few jobs. Maybe one or two days. I got called maybe about three jobs, and do you know what happened on those three jobs? I was at the union hall and I was to report to CBS wh were calling for a job. By the time I got from the hall another man got the job because I left at 10.30 or 11 o'clock during the day. So I missed about three or four jobs that I would have normally have gotten.

Q That you would have gotten?

A Yes.

THE WITNESS: I was born here, but I grew up in Jamaica.

Q You went for about two weeks?

A Yes.

Q And started in as an apprentice of 644?

A Yes.

Q Is that right?

A Yes.

Q At the time that you went out to the Local 14 school did you attempt to get into the Local 15 school?

A I had no -- why would I attempt to get into Local 15 if I came out of the Job Corps and they said I was qualified?

Q Are you in the Local 15 school now?

A Yes. I would like to explain the reason why.

Q I will ask you the questions and you can tell me, all right?

THE COURT: Try not to answer questions he already answered.

MR. BRADY: All right.

Q When you had the meeting with Mr. Raphael, Mr. Guma and other representatives of Local 15, did Mr. Raphael say he thought he could help you with Local 15?

A Yes, he -- what do you mean he thought he could

help me?

Q Did he say anything about your chances of getting work or getting into school?

A No. He just -- he is the one I spoke to and he said, well, he would get in touch with them and try to see what he can do and they set up a meeting.

Q Was it right after he called, soon after he called?

A Maybe about a week or two weeks after.

Q At the meeting did you say that you now wanted to get into the Local 15 school?

A No.

Q How did the Local 15 school come up? Was that Mr. Murphy who mentioned it to you?

A Yes.

Q Did you agree at that time to go into school?

A Under the conditions of getting my book, which was stated in that context.

Q Did you get the book? How soon after you entered the school?

A I don't have no book. I still don't have a union book.

Q What were the conditions stated?

A Stated that I would have to be -- he said --

I am repeating myself again.

After a year, after I had been out for a year, and then I would need some practice.

Q But what were the conditions stated about getting the book?

A If I went out and practiced, practiced for a while, get yourself back in shape again, then you will get your book.

Q Didn't he say to you that you had to successfully complete the course at school?

A No.

Q Didn't he say to you you had to pass the test at the school?

A No.

Q Have you in fact been tested at the school?

A Yes.

Q When were you tested?

A One occurred about two weeks after I started to -- came back to the school. After we had that meeting.

Q What was the result of the test?

A Well, I got on -- the results were that I failed.

Q Did you agree that you failed the test?

A I agreed to the fact that I needed a little bit

more practice on, I think it was two of the machines.

Q Have you been attending school every Saturday, Mr. Wilson?

A Just about every Saturday.

Q Have you beentested recently?

A Yes, last week.

Q What was the result of that test?

A Failed me again.

Q Did you agree that you failed that test?

A What do you mean by agreement?

Q Did you agree that you did not successfully pass that test?

A I don't know what you mean by agreement.

Q Do you think you passed the test?

A Do I think I passed the test?

Q Yes.

A Yes.

Q Do you think you should have passed it?

A Yes.

Q Were there certain time limits given to you to perform certain jobs?

A Yes.

Q Did you do those jobs within the time limits?

A No.

Q Since you have been in the school, Mr. Wilson, have you seen other black students out there?

A I would say yes.

Q Have you seen other black students successfully pass the test?

A No.

Q During this period of time you have never seen anyone successfully --

A You are asking me if I come and look and saw anybody take a test? No.

Q Are you aware of the fact that there are black students who have passed the test since you have been out there?

A I don't know what you mean again, did somebody say something to me?

Q Look, when you first went into the school --

A When they told me to go back to the school to practice up.

Q You say come back to the school?

A Come back to the school to practice.

Q Right. You hadn't been in the Local 15 school before, had you?

A No.

Q Were there black students then in the school?

A I never seen anybody take a test.

Q Were there black students then in the school?

A Yes, there were black students in the school.

You want to know whether I saw anybody take a test and pass it. No, I didn't see anybody, whether they did or not. I am quite sure they were, but I never seen them with my eyes.

Q Were some of those students who left the school black students?

A I don't know these people out there. I know hardly any out there.

Q How many students at the school?

A In the 15 school I would say there is about maybe 30.

Q Did you ever talk to black students out there?

A One or two of them.

Q Do you know that certain black students have passed the test and have their book in Local 15 now?

A Since when?

Q Since you are out there.

A Since I was out there? No.

Q Do you know of any other black members who have gone to that school, successfully passed the test and have been admitted to Local 15?

MR. DEVORKIN: I object. This is the third time we have been through this.

THE COURT: He doesn't know.

Q Mr. Wilson, you said that when you were at the school waiting for work you would see other people, white and black, getting work ahead of you. Is that so?

A I didn't say that.

Q Didn't you say that people came in after you were there and were sent out before you?

A Right.

THE COURT: He didn't say black. He said he saw some whites.

Q Just white people?

A Yes.

Q Did you ever see a time when a black man was referred out ahead of you?

A When are you talking about, what time? Let me get that.

Q Any time since --

A Any time since I have been in the union, when I was in the hall, seen black men and white go out and leave for jobs, yes.

Q Ahead of you?

A Sure.

Q Do you know what type of work they were assigned to?

A I have no idea.

Q Have you ever been discharged from a job that you were sent to by Local 15?

A Yes.

Q What job is that?

A Well, it is my own job. I was sent to a job and discharged from that job? That was the Myrtle Avenue job, I was sent down on a 977 which is a cat loader and I went down there for -- I got down there maybe 10.30 or 11 o'clock, because I can't afford to own a car.

So I left the hall I guess maybe around 9, 9.30, and I didn't get there until 10.30 or 11 o'clock. So by the time I got there the superintendent was so disgusted, I got on the loader and got ready to move it and I told the laborer I didn't have a cat key and he went back to the superintendent and, as I said before, the superintendent was so disgusted by 11 o'clock, the day is half-gone, he said, "Forget it."

Q Did you operate it at all?

A No, he didn't even let me operate it. He said forget it.

Q Is that the only job you were ever discharged

from?

A What do you mean by discharged?

Q Let go from a job and not complete it.

A I don't follow you again.

Q Has an employer ever let you go from a job?

A An employer discharge me from a job ahead of time?

Q Yes.

A No -- yes.

Q When was that?

A That was back in around 1970 or 1971,the early part when I first started going down to the union.

Q What was that job?

A The job was down by the piers.

Q What machinery were you operating on?

A I don't know what machine, but the machine was a gigantic machine. It was like twice the size of a 977.

Q What type of machine?

A Like a 977 except it had like a demolition bucket that drops and rips.

Q Like a backhoe you mean?

A No, a bucket, three-way, four-way bucket. The bucket actually itself opened up for ripping down the

piers.

Q What happened on that job?

A I went down on the job and started to move the machine, and the foreman told me,"Well, no, forget it." But what I understood --

Q What did he say to you specifically, not what you understood but what did he say?

A "Forget it."

Q Do you know why he said "Forget it"?

A Are you asking me why I feel he said it?

Q Do you know why he said "Forget it"?

A Do I know why he said "Forget it"? No.

Q Did you ask him?

A I just -- do you want me to assume?

Q Did you ask him?

A No, I did not ask him.

Q What time of day was this?

A Also around maybe 10 or 11 o'clock.

Q Did you work there at all?

A Pardon?

Q Had you worked the machine at all that day?

A I got on the machine and I moved the machine.

Q How far did you move it?

A I moved it maybe about 20 feet.

Q Did you use the bucket at all?

A No, I didn't use the bucket at all. I lifted it up off the ground.

Q He said, "Forget it"?

A Yes.

Q You didn't ask him what he meant or why?

A No.

Q Did you just leave?

A Right.

Q Did you go back to the hall?

A Yes. I told Tommy McGuire.

Q What happened then, did he find out

A Pardon?

Q Did Mr. McGuire make any inquiries, to your knowledge?

A I don't know.

Q Did you complain to Mr. McGuire that you had been wrongfully discharged?

A No, I did not.

Q Why?

A Why? Because I was told ten men went down on the job before me and the guy didn't want them on the job.

Q When were you told that?

A I was told that by the members, one of the

members, you know, who went down on the machine and operated it afterwards.

Q Who was that?

A His name?

Q Yes.

A Keith Francis.

Q Did you ever work for HRH in 1971?

A Yes, I did.

Q What did you do there?

A I operated -- I am not sure on that date, I am not positive about the date, but I worked for HRH around this period of time. I worked on a bobcat.

Q As an operator?

A Yes.

Q Sent out from Local 15 as an operator?

A Tommy McGuire sent me.

Q How long did you last on that job?

A Two months, two and a half months.

MR. BRADY: I have no further questions, your Honor.

MR. DEVORKIN: I do have some redirect, your Honor.

REDIRECT EXAMINATION
BY MR. DEVORKIN:

Q Mr. Wilson, you answered in response to

one of Mr. Kennedy's questions that you discussed with Mr. Stanton some time in the eight-month period when you weren't getting work from 15, the fact that you wanted to get work, and I believe you said he said his hands were tied. Did he say what he meant by that?

A Put it this way, what I said was that from the conversation I got that his hands were tied, basically tied. Basically through the conversation.

He didn't say that in those words,but through the conversation I got the impression that his hands were basically tied, he doesn't delegate work.

Q Do you remember if not word for word the gist of what you said and what he said in that conversation?

A I said -- I can remember -- basically it was that I wasn't getting any work at all, you know, if there is something possibly that he could do.

His remarks I don't know exactly but something to the effect his hands were tied. Those werent his words.

Q You just mentioned to Mr. Brady about this job with the bucket that grabbed?

A Yes.

Q And yousaid that the reason that you didn't complain to Mr. McGuire is that someone said ten other men were sent out there and had been put off the job.

Do you remember who told you that?

A Yes, Keith Francis.

Q Is he white or black?

A Black. He was the one who went down on the job and operated the machine afterwards. But I am quite sure the men down there before me were white.

Q White?

A Yes.

Q They operated the machine before you, ten men?

A Had gone down to attempt to operate the machine. This is from hearsay from Keith Francis.

Q You mentioned you operated a bobcat?

A Right.

Q What is a bobcat?

A At the time I didn't know what it was.

Q When you were sent out you didn't know?

A No.

Q Did you ever operate one before?

A No.

Q Did you operate one?

A When I got on the job.

Q You learned it at that point?

A Learned about maybe half an hour to an hour.

Q Were you operating this bobcat for two and a half

months?

A Yes.

Q Anybody from the union, a delegate or an officer, ask you to come into the union as a member?

A No.

Q Had they sent you out to that job?

A Yes.

Q When you were tested at the school the first time how many pieces of machinery were you tested on?

A The first time I just went on the backhoe and I was going on the loader and the cat rig, but I didn't make it to that, I just, you know.

Q This last time, how many pieces?

A All the machines.

Q How many pieces is that?

A Backhoe, 977, rubber-tired loader and a dozer.

Q That is four pieces of machinery?

A Yes.

Q When time limits are given to do a job for this test, what kind of time limits are they?

A I think 20 minutes to dig 200 feet at a three-feet depth.

Q 20 minutes to dig 200 feet?

A I think it was, I think it was 20 minutes to dig

200 feet. I am not sure about the time limits.

Q What kind of machine?

A Backhoe.

Q Have you ever been on a job when backhoes were used, seen them used?

A Yes, I have seen jobs with backhoes used.

Q Is that kind of time limit ever used or necessary on a job, from what you have seen?

A No, in no way.

Q Besides the backhoe, any other tests of machinery at the school that had time limits?

A All the machines had time limits.

Q What was the dozer time limit, if you remember?

A Well, I don't know what the dozer time limit was exactly, but I know what I had to do. I had a hole to dig with the backhoe, take the dozer and fill the hole back, and then after that, drop the load -- I will tell you what happened.

Operate the backhoe and after I finished operating the backhoe, I had to use the backhoe again to load a truck and used the backhoe to load a truck. The dirt from the backhoe that I used to load the truck was dumped on the ground and I had to make three passes with the dozer and leave six inches off the ground.

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Q Have you ever seen anybody have to do that on the job?

A No.

MR. DEVORKIN: I have nothing further.

MR. BRADY: I have just one question.

RECROSS EXAMINATION

BY MR. BRADY:

Q Mr. Wilson, is it your testimony that the employers on the job are not concerned about how fast an operator works?

A Sure, they are concerned how fast an operator works. The more production you get the more money he makes.

Q Isn't speed a factor in the skills as an operating engineer?

A It depends on the job you are on. Speed can also kill you.

Q If you can't operate, that is correct?

A No. Even if you are a good operator, if you are rushed you can kill yourself.

Q Never mind that. You do agree that speed is important to an operator?

A On certain jobs, yes.

Q Certain jobs that isn't important?

A Certain jobs if you -- there is a safety factor involved. If you speed, you might wind up killing yourself.

Q How about digging a trench, is speed important?

A It depends on the job. If you are working out in the street where you have wires and gas mains and electric wires, speed is important, you might blow yourself up.

Q Any gas mains or wires, electric wires at the school when you are digging?

A No.

Q What other jobs are not concerned with speed? Other jobs where speed is not important.

A I explained to you what I am telling you, that it depends on the job that you are on. That speed is important on some jobs and some jobs you can get away with speed and some jobs you can't.

Q At the school isn't it the practice to give everyone the same test?

A I don't follow you.

Q At the school, the trainees, before they graduate --

A Yes.

Q -- they all take a test, isn't that so?

A I don't know.

Q Have you ever seen people take tests?

MR. DEVORKIN: We had that question and it was answered.

THE COURT: Yes, he said he didn't see anybody take a test.

Q Mr. Wilson, do you recognize this?

(Defendant Local 15 Exhibit E marked for identification.)

A Yes.

Q Is this your signature on it?

A Yes.

Q Did you sign that after you were tested out at the school?

A Did I sign it? I was asked to sign it.

Q Did you sign it?

A Of course I signed it.

Q After you were tested?

A After I was tested. yes.

Q Is that the results of the test?

A I was asked to sign this.

Q Is this the result of the test?

A Whatever they put down there, sure, it is.

Q Did you agree with those results when you signed it?

A You have to rephrase that question. I don't know what you mean by it, did I agree.

Q Did you raise any protest?

A No, I didn't raise any protest, because when I first came out I was shocked at the whole thing myself. All of a sudden I come out and I am asked to take a test and I said, you know, what is this about. "Keith, are you ready to take a test now?" Something to that effect.

I was wondering what it is all about, so I said, "I don't know." Then he went back and put down on a piece of paper, another piece of paper like this, that I refused to take the test. So I said, "Forget it, I will take the test."

Q He gave you a test?

A One of the Local 15 members.

Q What is his name?

A Earl.

Q Earl Johnson?

A Yes.

Q Is he black?

A Yes,he is black.

MR. BRADY: I offer this in evidence, your Honor.

MR. DEVORKIN: May I see it first?

MR. BRADY: I have no further questions.

THE COURT: You are excused.

MR. DEVORKIN: May I have a moment, please? I have one or two.

THE COURT: All right.

BY MR. DEVORKIN:

Q Mr. Wilson, did you understand that you failed the test?

A No.

Q When you were asked to sign this did they tell you what your signature meant?

A No.

MR. DEVORKIN: I have no objection to this.

xx (Defendant Local 15 Exhibit E for identification received in evidence.)

Q Have you seen any men on the job that were engineers working too productively and have other engineers get mad at them?

MR. KENNEDY: Objection, your Honor, I think it is improper redirect examination.

MR. DEVORKIN: Mr. Brady brought out about how fast men work on the jobs.

Q Mr. Wilson, can you answer?

A Yes.

Q Have you seen men working too productively

and have other engineers get made at them?

A I haven't seen anyone work too productively on the job and engineers get made at them. I would say --

THE COURT: You have your answer.

Q Mr. Wilson, when you were at the hall in 1970 and 1971, did any of the business officers or agents from 15 come to you and make any statements?

MR. BRADY: I object to this as improper redirect examination.

THE COURT: Yes, that is outside the examination. You are excused.

(Witness excused.)

THE COURT: We will recess now until 2.30.

(Luncheon recess taken until 2.30 p.m.)

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A F T E R N O O N S E S S I O N

2.30 P.M.

MR. GLASSMAN: May I proceed, your Honor?

THE COURT: Yes.

MR. GLASSMAN: The government calls William Joquin.

W I L L I A M E. J O Q U I N, called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GLASSMAN:

Q Mr. Joquin, where do you live?

A I live at 1630 Undercliff Avenue, Bronx, New York.

Q How old are you?

A I am 46.

Q Are you married?

A Yes.

Q For the record, what is your race?

A Black.

Q Are you a member of Local 15?

A I am.

Q How did you receive your first training in heavy equipment?

A How I first received my training? Well, I went to a training school, Interstate Training School.

Q And where is that school?

A It is located in New Jersey, Vincentown.

Q When did you go to that school?

A I went some time in 1970.

Q How were you employed before you went to that school?

A How was I employed?

Q Yes.

A I was employed by Model City, and I was working for the Urban League.

Q What were you doing for Model City?

A I was a community aid, and for the Urban League I was a custodian.

Q How did you find out about the Interstate School?

A Through a television advertisement.

Q Did you have to pay for that school?

A Yes, I did.

Q How much did you pay?

A A thousand dollars.

Q How long a course did you take at the school?

A For two months.

Q And what did you learn at the school?

A They taught me how to operate a backhoe, front-end loader on track,and the bulldozer.

Q Did you take any examination on completion of the course?

A What do you mean "examination"?

Q Any test?

A Yes, a written test.

Q Did you take any practical test?

A Yes.

Q In retrospect did you find the training to be of any use to you?

A Yes, I did.

Q Approximately how many people were in the class at the school?

A Approximately there was about 32.

Q Were they white or black?

A It was white, black, and Spanish, but it was mostly the minority group.

Q When you took that course did you expect to get a job after the course wasdone?

A Yes, I did. That was the understanding, when you complete the course they are supposed to place you.

Q Were they able to place you with a job?

A No.

Q What specific kind of equipment by brand name did you operate at the school?

A At which school?

Q At the school, at Interstate?

A It was mostly the John Deere equipment.

Q Is that the same brand name of equipment that you used on the job in Local 15?

A No, not mostly -- mostly with Local 15 it is a caterpillar or a bigger machine. At Interstate it was just the John Deere.

Q Could you describe for us the difference in operation between the John Deere equipment at the school and the caterpillar equipment on the job?

A It is just a matter of locating the controls, different controls -- like, say, for instance, with the backhoe, John Deere backhoe, the lever, you swing right or left, it is on your righthand side, and maybe on the Case it is the foot pedal, to swing on the foot pedal; and on a Dynahoe it is on the righthand side, and on the Ford backhoe it is up on your lefthand side.

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Q After you got out of the school how did you find a job?

A Well, I knocked around for a little while. I went to different contractors. I worked out in the yard like changing flat tires, you know, and I did this for about a day or two and then they sent me out to Staten Island to see if I can work a motor scraper.

Q Any particular reason why you decided to knock around, as you said?

A Because, like, you know, Interstate didn't keep their promise, so at that time I had taken this case to the Human Rights Division about Interstate not keeping their promise about placing us on jobs.

So during that time I was knocking around trying, to different contractors, trying to get a job, get some work.

Q Did you go to the union right after you got out of school?

A No, I wasn't aware of the union when I first came out of the school.

Q How did you ever become aware of the union?

A Well, after I knocked around I used to go to different sites and watch different operators operate different machines.

So at this particular time, it was in the summer of 1970 I believe, and I was in the vicinity of 116th Street between Fifth and Lennox Avenue and I seen this black operator up on the loader, track loader. So when he came down off the machine like, I spoke to him and he told me like if I want to get hooked up, he told me to go down to 15th Street, the union, and see Mr. John Murphy. So with that advice, that is where I went.

Q That was the first time you heard about the union hall?

A Yes.

Q Did you then go to the hall?

A Yes.

Q What did you do when you got there?

A When I went down there I had graduated from Interstate and they gave us a certificate, all the graduates, and I took the certificate down to the union and I showed Tommy McGuire, showed him the certificate, and like that didn't register, it just wasn't up to par.

Q Did Mr. McGuire tell you to sit down in the hall?

A No.

Q Did he sign you up on a list?

A No.

Q Did he put you on a list, on a waiting list for a school?

A No.

Q What happened then, did you leave or stay?

A There was nothing else to do but to leave.

Q Did you go back to the hall again?

A Yes, I went back to the hall again.

Q When did you go back?

A Well, this is when I became involved with this contractor, Cross Bay. This is the contractor that I changed the flat tires just to get some practice on his machine. He was the one that sent me to Staten Island on the scraper.

After a while he was going to hire me, but he wanted to hire me at $5.50 an hour and work like, seven days a week, and at that time I was living in the Bronx and the hours were too long, just traveling time, sleeping time, and I couldn't make it.

So with that, I went back down to the union hall and I met Tommy again and I spoke to Tommy. He asked me who sent me. I told him Cross Bay. So he didn't recognize Cross Bay, so I went back out into the streets again, knocking around again.

Q How did you then try to find a job?

A I went to different training programs and --

Q What training programs did you go to?

A I went to Manhood, do you understand, or Manpower.

Q Where is that located?

A Manpower?

Q Yes.

A I think it is Manpower or Manhood, located up on Lennox Avenue and 125th Street.

Q What did they do for you?

A Well, they told me they couldn't help me because, like, they didn't know what to do themselves.

Q Did you go to any other training organization of any sort?

A That was later after I went back down to the union, do you understand? I asked around and I asked a friend and the friend had another friend that was involved with Turner Construction, a coordinator for minority groups, and he introduced me to him and he made a phone call to Cross Bay and different contractors like, L.B. Griffin, just to get work out on his machines.

Q Did you go back to the hall again?

A Yes.

Q When was that?

MR. BRADY: Can we fix a time for this?

Q When did you go back to the hall?

A All that was, all in process between 1970 and 1971.

Q What happened the next time you went back to the union?

A I met Tommy again, and this time he said, "Who sent you?" And I told him L.B. Griffin.

That didn't register. That didn't mean nothing.

Q Who is L.B. Griffin?

A A black contractor.

Q What did you do after that?

A After that? Well, knocked around, looked for more work, went to different sites.

Then at this time, I decided, you know, to get some letters because another black operator told me "Why don't you get some letters from different organizations?"

In turn I went to the Urban League and got a letter from the Urban League. I was affiliated with a black association and they wrote me a letter of recommendation and then Turner Construction, this coordinator, wrote me a letter of recommendation.

With these three letters I came back down to the union and showed the union the letters.

Q Who did you show them to?

A To one of the 14 delegates, and he called Johnny Murphy and I showed Johnny Murphy the letters and Murphy said, "These are nice recommendations."

At this time he told me to sit down, you know, over there with the rest of the fellows, that I had to shape up. So I was all for that, so I sat down.

Q About how long did you sit there?

A Maybe about 15 or 20 minutes, and he came out and gave me like a little note that they usually give when they send you out on a job.

In turn, I read the note, and he sent me to the main office at 14th Street, the union office.

Q Did you think it was a job slip?

A Yes, I thought it was a job, but thatwas too fast, you know, that was too quick. I just came there. He told me to shape up.

Q When was that, what period of time?

A What do you mean?

THE COURT: 1970, 1971?

A Right, like in the middle part, around I would say July, August or September.

THE COURT: Of 1970?

THE WITNESS: Correct.

A With this here letter I took it to the union

office at 14th Street. So in turn I seen Tommy Gerity, I think his name is.

Q Were you told to see Gerity?

A Yes. I sat there until he got through talking, taking care of business or what he had to do, and then he called me over and spoke to me.

So he told me some kind of story about I had to go through a training program, do you understand, before I can become a journeyman, and with this he sent me up at that time it was the recruitment program, training, another name under A. Phillips Randolph, and I went up to this, like a training program.

Q Where did you go?

A Up in the Bronx, right off Westchester Avenue.

Q Is that a black organization?

A When I got there it was Spanish running the organization. So like I went in there and spoke to the guy supposed to be the director.

Q Do you remember his name?

A Right offhand, no. I spoke to him and he told me -- I told him my story, my situation.

So he looked at me like if I was crazy. He said, "What do you want me to do for you? If the union can't help you what can I do?"

So I thought that it was a gain, some kind of farce. So to make a long story short, me and the guy had heated words because I thought he was playing a game. I went back for the training program.

Q Did you get a job through the training program?

A No.

Q Do you remember going back to the union hall again?

A Yes, I went back to the union hall.

Q How long afterwards?

A Maybe about just went into 1971.

Q Who did you see that time?

A This time I encountered a number of 14 delegates, do you understand? I went there this time --

Q Do you remember his name?

A No, I don't recall his name. I went back to the hall with determination like I was going to speak my piece.

So at that time Mr. Murphy and Tommy, I think they was in Washington on a convention, so I spoke to this 14 delegate, and he told me, like, he in turn introduced me to a 15 delegate. At that time he introduced me to Frank Guma, do you understand?

I spoke to Frankie and told Frankie that John Murphy said when I came back this time that he was going

to do something for me. So Frankie told me okay, I could come out to the school next Saturday, do you understand?

So I came out to the school next saturday out there in Long Island. He told me what I had to do, bring some pictures, fill out an application. He said when I bring this back the following Saturday he will put me into training, and that is what he did and I did. I went in the training the following Saturday.

Q You said you told Frank Guma that Johnny Murphy sent you. Had he actually sent you?

A No, he didn't send me, but I just at that time told him a story because that is what I was getting all the time, a story. So I figured that I was determined to tell a story back.

Q You were then sent to school?

A Yes.

Q How long did you go to the school?

A I stayed there nine months.

Q What did you learn at the school?

A Well, I learned how to operate the 4 dozer, the 7 dozer, the Dynahoe, the 160, the 955, the 977, the 90, the 966.

Q Were you trained on any cranes?

A No.

Q Was the school on Saturdays or week days?

A It was Saturdays.

Q When you started the school did you get any jobs at that time?

A Yes. I was sent out on a job like maybe after a month later I was sent.

Q After a month later, after you started the school?

A Yes, I was going to school, you know. Then maybe a month after like attending school, then Danny Murphy sent me on a job. He sent me on a cement buggy.

Q What do you do on a cement buggy?

A Like driving a car. You pick up cement, like you drive this buggy under the plant and this plant pours cement in the bucket and you back out and take this here cement to different spots on the site, maybe a spot over there, one over there and back here.

You drive it to these different spots, dumping the cement in a pan and on a power driver and this in turn takes the cement, pours it into the chute to make the footings.

Q Had you been trained on a cement buggy at the school?

A No.

Q How long did that job last?

A That job lasted two months until they went on strike.

Q What other jobs did you get during the school?

A During the school? I was promised another job, do you understand? This was on heaters for eight months, but the hours were like from 12 to 8 in the morning, and that was seven days a week. Frank Guma offered me this job and that was the only job that I turned down because I couldn't make it because I thought it would interfere with me getting my book, because I couldn't pull no 12 to 8 in the morning seven days a week and come in Saturday morning and put in another eight hours out there in the field practicing how to operate different equipment.

Q What other kinds of jobs did you get while you were in school?

A Well, I got a job down in the tunnel with Perini operating a 950 loader.

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Q How long a job was that?

A That lasted a week. For some reason or other the foreman, I guess he just didn't dig me, you know, so he promised to get me off -- get me off the rig, and he did within a week's time, you know.

Q When you say he didn't dig you, what do you mean?

A Like -- like he was a sandhogger -- he was a tunnel worker, do you understand -- like he was -- he was from California, you understand, and I guess he just didn't dig me being up on the machine, you understand, and so -- I don't know, he just didn't -- the first day he just didn't go for me.

Q Was he white or black?

A He was white.

Q Was he a member of the union?

A Not our -- not 15 -- of the sandhog, the tunnel workers.

Q Were you given another job after that?

A Was I given another job after that?

Q Yes, sir.

A Yes, I got another job after that.

Q What kind of job?

A I had so many jobs, you know, that -- like

I can't remember all of them but it was for no long period of time, you understand -- like then after that --

Q Well, what kind of jobs -- how long were the jobs you were sent to?

A Well, like I am going -- like I have been in the union this February two years, and out of two years the longest I ever worked on one job was like five and a half months, and on that job I was on a truck crane as an oiler.

Q What was the longest time on a job you had while you were in the school?

A Driving a cement buggy.

Q Aside from the cement buggy job, what was the longest job you had while you were in the school?

A That is the longest I can remember.

Q Aside from the cement buggy, what is the longest job you can recall?

A The next longest job?

Q Yes.

A Was on a crane as an oiler.

Q How long did that last?

A That lasted for about five and a half months.

Q That was while you were in the school?

THE COURT: No, that was after.

Q That was after?

A No, just a moment -- I think I was still going to school then.

Q When did you get your book in Local 15?

A When did I get my book in Local 15? I got my book in 1973, in February.

Q Was that after you graduated from the school?

A That was after I graduated from the school.

Q What kind of jobs have you gotten after you got your book?

A What kind of jobs?

Q Yes.

A Well, I got a job on a roller, on a little small rollerup on the roof compacting the black tar on a roof, and thiswas cut in Far Rockaway on a school, on a school building.

Q Have you generally been getting good jobs since you got your book?

A I have been getting -- I have been getting the crappy detail so far as I am concerned.

Q Can you give us some example of what you consider "crappy detail"?

A Crappy detail -- either I am refusing somebody or I am sent out on a back-breaking job like this year, like nine out of ten times I have been on a well point --

on well point jobs, and that is like the laboring part of the job, you understand. I don't mind the work, you understand, but sometimes you will be thinking, I won't beef about it and I won't complain but when you finish up the job you hope to come back to the hall and get a decent job, you know, like what I was trained for -- I ran a motor car, I ran a roller, I ran -- I operated an air jackhammer. I operated every piece of equipment, you understand, you know, and they are supposed to be hired -- I operated this equipment, but the equipment that I trained for I have only been out one week on it, and that was a 450 John Deere and a 950 -- those were the two longest I have ever been on a piece of equipment that I ever trained for.

Q How have you learned to operate the other equipment that you weren't trained for?

A Well, I was making it my business to go there maybe an hour and a half before I am scheduled to go on the joband do this-- I meet the other operator that is on before me and so I ask him, like the basic fundamentals on how to operate the machine or he taking me through the process and he shows me how to operate so when it comes time for me to go to work, you know, I have a brief information about it, and I am able to perform.

Q Have you ever refused a job?

A Just that one heater job.

Q That was when you were at school.

A Right.

Q And have you ever refused a job since you got your book?

A No.

Q Have you ever seen whites refused jobs?

A Yes.

Q Any particular reason you haven't refused a job?

A Why I don't refuse a job?

Q Yes.

A First of all, I need the work, and then, you know, being like I am black, you don't refuse nothing. You don't refuse nothing that the union give you, you understand, because if you do there is no telling how long you will sit on that bench, and, you know, I have a family to support and there is rent to be paid, you know.

Q What is the longest time you have ever sat in the hall without a job?

A The longest time I sat?

Q Yes.

A Is that after school end?

Q After school.

A The longest it may be four to six weeks.

Q What is the longest time you have ever seen a white man sitin the hall without getting a job?

A The longest time I have seen him sit? Maybe three weeks -- maybe less than that, I don't know.

Q Have you sat in the hall in the last few months?

A Yes. In May I sat there for about four weeks.

Q During that period about how many men were in the hall on a Monday morning?

A Around about that time on a Monday morning I guess you would count about 100 at least.

Q Out of those 100 men how many were white and how many were black and Spanish?

A Well -- well, I am going to use a rough estimation, you understand? Maybe there might be 80 whites in there and 20 blacks.

Q Have you ever sat in that hall toward the end of the week, like Thursday or Friday?

A I didn't get that.

Q Have you ever remained in the hall towards the end of the week?

A From Monday to Friday, yes, sir.

Q About how many men are usually left in the hall at the end of the week?

A How many? Usually those same figures that I gave you, you understand -- like if it was 100 all together and there was 20 blacks in there, most of the whites would go out, and you might have 18 blacks still there, you know. That is just a rough estimation, you understand.

Q Does it change from week to week?

A Does it change from week to week? I can't say. You know, maybe I might go out for maybe one or two days, and like, you know, I lose track of who is in the hall that weekend, so I can't say for sure .

Q Have you ever seen men bring relatives into the hall?

A Yes.

Q When?

A When?

Q Yes.

A Well, I can't say exactly when, but, you know, like it happened this year, you know -- and then I even heard the delegate say -- like they told the fellows not to bring their sons because, like, you know -- like times are hard, you know, things were tight, you under-

stand.

Q Have you seen men bring their sons before that?

A Yes -- not only to the hall, to the -- no, I can't say to the union -- to the hall.

Q Have you seen men's sons being referred out to jobs?

A Pardon?

Q Have you seen men's sons being referred out to jobs?

A Well, I don't know whether they are being referring out to jobs. All I know is that they go in the office, they talk, I assume; they come back out and everything is honky-dory; everybody is sharking hands and there is a smile on everybody's face.

Q Mr. Joquin, do you know what "challenge" is?

A Yes.

Q What is it?

A A challenge is like a delegate might send you out, you understand, to check out a job, and they might tell you there is a backhoe, a loader and a fork lift on the site, and tey want you to go out and check each of the equipment, check out the operator, you understand, whether he has a book or not, you know.

Q Have you ever been sent out to challenge someone,

sent out by a delegate?

A Yes.

Q Will you tell us when that happened?

A That happened recently -- maybe about a month -- maybe two months ago, I was sent out by Tom Maguire, Jr. I was sent up in the Bronx on Willis Avenue, to check out what I just mentioned -- a loader, a fork lift and a backhoe, and I checked it out and I got the people to call in, you understand, you know, to verify this.

Q Were you sent out to challenge a black ever?

A Yes.

Q When did that happen?

A When did that happen? It happened -- let me see -- maybe the latter part of 1973, out in Brooklyn.

Q Who sent you out?

A Danny Murphy. He sent me along with another white operator, and his name was Jimmy. I can't think of his last name.

Him and me went out and we challenged this here black operator, you understand, and me and the guy had words, you understand, like, I guess we almost came to blows, but for some reason or other the contractor came on the scene, you know, so rather than -- I spoke to the contractor, you understand. I asked him who was he, what

outfit was he, and I didn't get no information, you know, because, you know, the difficulty we have -- almost with fisticuffs, you know.

Q Did you get a job after that?

A Which, on that?

Q On that challenge.

A No -- excuse me, no.

Q This year when you were sent out, I believe you said Mr. Maguire sent you out this year to challenge someone --

A Yes.

Q -- did you get a job after you challenged those people?

A No.

Q Mr. Joquin, have you ever worked for Perini?

A Perini, yes.

Q When did you work for them?

A I worked for Perini twice. I worked on 79th Street and I worked on 179th Street. This was down in the tunnel. As a matter of fact, I worked for them three times, for Perini.

Q How long were those jobs?

A Well, the first one was on the 950 -- that lasted a week.

Then the next time I went as a maintenance man.

Q Did you ever have any problems on any of those jobs?

A Yes, yes, I had problems, you know, like dealing with the foreman.

Q Which job did you have a problem on?

A Perini. That is what I am telling you about. That is what I am saying, that I had that problem with the foreman on the 950.

MR. KENNEDY: Your Honor, I am going to object to this unless the foreman is identified and what union he is a member of.

THE COURT: Yes.

MR. BRADY: The same objection.

THE WITNESS: Yes. Is this the case of a foreman, of the Sand Hog Union?

THE WITNESS: Yes, of a member.

THE COURT: The foreman you had diffuclty with was not a member of Local 14?

THE WITNESS: No.

MR. KENNEDY: Then I move to strike the testimony.

MR. BRADY: I move to strike it.

THE COURT: It does not need to be stricken.

BY MR. GLASSMAN:

Q After that particular problem on the job, that I guess you described earlier, have you ever complained to the union delegate?

A Did I ever complain to the union delegate?

Q About a problem on the job.

A Not really, because I don't know whether this is the correct thing to say or not but to me it didn't make no sense, because I felt that the delegate would take the word of the contractor before he would take my word, so I didn't like making a fuss and I didn't want to create no ill feelings or hard feelings, plus I wanted to get my book at the time, you understand.

Q Any particular reason that you thought there might be ill feeling if you complained?

MR. BRADY: I am going to object to that, your Honor. This is just a feeling, and I move that it be stricken.

THE COURT: Yes. He can testify to instances, that is one thing, but not "feeling".

Q Mr. Joquin, do you ever go to membership meetings ofLocal 15?

A Yes, I have.

Q Have you ever heard any discussion at union membership meetings of this lawsuit?

A Yes, yes.

Q Approximately at what pointof time have you heard such discussions?

A This happened either February or March or April, you understand --

Q Of this year?

A Yes. At that particular timeI think the government was calling the union down or getting ready to take them to court, you understand, so it just so happened I made that meeting, I happened to go to that meeting, and when the meeting opened up Mr. Maguire, Sr., you know -- like he spoke about the issue, about the government taking Local 15 and 14 to court, you understand. So Mr. Maguire, he said like "If you blacks got anything to say", you know, "about what's going on", you understand, "make sure you tell the truth".

But he said like he elaborated on it even more -- he said "You call up Tom Gerrity," you understand, and Tom Gerrity, it seems as though he was angry, and like he was raising his voice in anger and saying "Listen, if you blacks got anything to say," you understand, you know, "make sure you tell the truth" -- and, you know, like he

referred to the Hispanic, and then he includes the whites at the end, because it seems like, you know, it was like a direction to the blacks --

MR. BRADY: Your Honor, I am going to object to what it seemed like. He can report what Mr. Maguire said.

THE COURT: Yes.

Q You said he first mentioned this about blacks and then later added it about whites?

A Yes -- you know, like if everybody got called down, you know --

MR. BRADY: Your Honor, I am going to object. If that is what he said, all right.

THE COURT: Yes.

MR. BRADY: Not"like what he said."

MR. GLASSMAN: I think, your Honor --

THE COURT: Say what he said and in what tone of voice he said it. Beyond that I don't think he can.

Q Mr. Joquin, was there any difference in the tone of voice --

THE COURT: I think he said the order in which he discussed it, that's all right.

Q Mr. Joquin, was there any difference in the manner or tone of voice in which Mr. Gerrity mentioned this

subject about blacks as opposed to whites?

A He said it like -- he said like angry towards the black -- like he felt, you know -- like we was causing some kind of difficulty, you understand --

MR. BRADY: Your Honor, I am going to object to what he felt Mr. Gerrity felt. I do not think it is probative.

THE COURT: I think we have had enough on that.

MR. GLASSMAN: May I have the Court's indulgence for a moment?

(Mr. Glassman confers with Mr. Devorkin off the record.)

Q Mr. Joquin, following that meeting, since that meeting what kind of jobs have you been getting?

A Since the meeting?

MR. BRADY: Your Honor, I am going to object to that. He has already asked what kind of jobs he got this year.

THE COURT: Overruled.

(Question read.)

A After that meeting I have been getting a lot of well point jobs, you know, because I have been going out on so many well point jobs.

THE COURT: Did you have anything to say at the

meeting?

THE WITNESS: Did I have anything to say?

THE COURT: Yes, at the meeting.

THE WITNESS: No, sir.

Q Did you discuss the meeting with any other persons?

A Yes -- what, after?

Q After that meeting did you discuss that meeting with any other person?

A Did I discuss that meeting?

Q Yes.

A Yes, with some other fellows, you understand.

Q Were they blacks or white?

A No, blacks.

Q Members of the union?

A Yes.

Q And will you tell us what you said and what they said?

A Well, they felt like --

MR. BRADY: Your Honor, I am going to object to that.

THE COURT: Sustained.

MR. GLASSMAN: Your Honor, what I am really trying to do here is to establish a state of mind of members

of the union at the time.

MR. BRADY: Your Honor, that has no bearing on the union.

THE COURT: You cannot do it by hearsay.

MR. GLASSMAN: Well, what this witness said to individuals.

THE COURT: He has already told us. I understand what his state of mind was.

A I didn't have nothing to say at the meeting.

MR. BRADY: I am going to strike that. It is not responsive to any question.

THE COURT: Well, I also asked him and he said at the meeting he did not say anything. There is no use striking it. It is already in.

Q Mr. Joquin, I show you Plaintiff's Exhibit 88 for identification (handing), and I ask you if you can identify that (handing).

A Yes, I can identify it.

Q Is that letter addressed to you?

A Yes.

Q And was it received by you?

A Yes.

MR. GLASSMAN: I offer Plaintiff's Exhibit 88 in evidence.

THE COURT: What is it?

MR. GLASSMAN: It is --

MR. KENNEDY: It is a letter from me, your Honor.

MR. GLASSMAN: And, your Honor --

ar t4/1 pm

MR. KENNEDY: May I state for the record, and if Mr. Devorkin disagrees with me he can say so, I called up and requested an opportunity to call the various people that appear on the government list and the reason for it, quite frankly, was that Mr. Devorkin did not want to consent to any depositions of the witnesses who appeared and time was running short and I hope Mr. Devorkin will vouchsafe that I did call and tell him I was calling the various witnesses that appeared.

MR. GLASSMAN: We are not in dispute over that. We are not offering that for that purpose.

THE COURT: I don't know who the letter is from. Received.

xx (Plaintiff's Exhibit 88 for identification war received in evidence.)

Q Mr. Joquin, following receipt of this letter did you call anyone?

A I don't understand.

MR. KENNEDY: I will state that he called

Mr. Reardon from my office.

MR. GLASSMAN: I would like the witness to answer the question.

MR. KENNEDY: I am sorry, I was trying to help out.

Q Did you call anyone after this?

A Yes.

Q Who did you call?

A I called the union lawyer.

Q Do you know who you talked to?

A I think I spoke to Mr. Reardon, Kennedy or Reardon.

Q What did he say to you?

A He asked me did I have any complaints against the union so I told him yes, do you understand? So he asked me a few questions like --

Q What did you tell him?

A He asked me like as far as getting jobs, did I have any trouble getting jobs because I was black, do you understand? I said no, not in that case. I told him something, I don't remember like verbatim, do vou understand? I just don't recall all what I said to him, vou know?

But I did tell him like I had complaints, do you understand? I told him like I don't like the suicide jobs

they sent me on some times.

Q What do you mean by suicide jobs?

A Suicide jobs? I mean like take for instance this job that I came off about maybe four weeks ago or six weeks ago.

I was an oiler on a crane. It was situated on a barge. It was at College Point, Flushing Bay. In order to get to this barge you had to walk across a plank, do you understand? And you had to walk across 15, 20, 30 feet of water. You had to go like maybe 50 or 60 feet out to getto this here barge to oil the crane, do you understand? You have to go up one flight over this water and walking planks and I can't swim, do you understand.

So that is why it became a suicide job to me. Sometimes, like to get to this barge, like the fellows that they call they dock builders, they wanted me to go like an obstacle course to get to the barge I told these guys you must be crazy. I'm not going out there, unless you bring the barge to the pier or to the shoreline.

So that is why I call it a suicide job.

Q Where were you working at the time you spoke to Mr. Kennedy or Mr. Reardon?

A The same time I am talking about now.

Q Anything unusual happen to you after you spoke to

Mr. Kennedy or Mr. Reardon?

A After I got through speaking to Reardon or Mr. Kennedy I spoke to him about a quarter to eleven. About a quarter to twelve the vice president came out there, Mr. John Murphy, do you understand?

He spoke to me and he told me that the job was now mine because I was taking a fellow's place because the fellow had two jobs and I guess this was against the rules and regulations, do you understand?

So he in turn told me that the job was mine now. So it seemed kind of strange because, you know, the vice president coming over to tell me that the job was mine. Like it didn't make sense to me. And the next day the job shut down.

Q Did you ever talk to your foreman about Mr. Murphy's visit?

A No. At that particular time the foreman -- he was a foreman but he wasn't too, you know.

MR. BRADY: I move to strike this as not responsive.

THE COURT: It is all right.

A He was acting foreman. The contractor wasn't out there so this guy, acting as foreman, his name was JB, he was a white guy, acting foreman.

So he came ashore and approached me and asked me what did John Murphy want. So I told him, you know, like he wanted to know -- some story because there was a compressor on the barge and it wasmissing, and I noticed it the next day.

So I told him like a story like that so they told me that they moved that 4:30 and I left the job at 4 o'clock and I know they weren't working overtime.

Q Had you ever seen Mr. Murphy on this job before?

A Which one?

Q John Murphy.

A No.

Q After that job ended what did you do?

A What did I do?

Q Yes.

A Well, I went back to the hall, I signed up, signed the book. I went back home.

Q Did you go back to the hall again after that?

A Yes. I went back the following week and then --

Q Who did you speak to?

A I just signed up like, I went in, you sign up on Monday. I signed up on Monday and I just took the rest of the days off because, I don't know --

Q Did you ever speak to John Murphy again?

MR. BRADY: Could you let the witness finish his answer, please.

THE COURT: Are you through with your answer? I think he is through.

Q Did you ever speak to John Murphy again after that?

A Yes, I spoke to him, yes. I spoke to him, I told him what happened on the job, about that job at College Point. Like, I heard the contractor and the owner, do you understand, they had some kind of dispute about money problems, about the contractor wanted $10,000 more to go on with the work.

MR. BRADY: I object to this and move to strike all this testimony.

THE COURT: He is explaining why the job shut down. It had nothing to dowith the union. I don't know why you want to strike it.

Q Mr. Joquin, did you ever ask Johnny Murphy for a job after that?

A No, I didn't ask him for a job after that. Just after that I came back the following Monday, I believe, and I signed the book. I signed in.

And then, like, I came to the hall for the first

two or three days and Thursday and Friday I took off and then Sunday, the 15th, I got a telephone call from Tommy Maguire, Jr. and he called me that Sunday night, about 10 o'clock, and asked me was I working. So I told him no.

He told me to report to the Second Avenue Subway Monday morning on well point and that is what I have done. That is where I have been.

Q You said Tommy Maguire, Jr. called you at home?

A Yes.

Q When was the last time he ever called you at home?

A All I can remember is twice.

Q How long ago?

A A long time in between. I can't say exactly but it is a long time between.

Q Isit more than a year or less than a year?

A I believe it was more than a year.

MR. GLASSMAN: I have no further questions, your Honor.

MR. KENNEDY: I would just inquire of Mr. Devorkin, do you agree with my statement that I did ask you?

MR. DEVORKIN: Yes, that wasn't the purpose

of the offer.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Joquin, do you recall talking to Mr. Reardon?

A Yes. Excuse me, I don't know exactly who it was but I recall I talked to one of the lawyers.

Q Did you call him or did he call you?

A I called him from the job site.

Q Was it in the morning or afternoon?

A It was in the morning.

Q What time in the morning?

A I called him between the hours of ten and ten-thirty and I got word from the secretary that he wouldn't be in until maybe a little later, until about a quarter to eleven, something like that, and that is when I called back again.

Q You spoke to him?

A I spoke to somebody. I don't know who I spoke to but I spoke to one of the lawyers.

Q How long did the conversation last?

A About ten or fifteen minutes.

Q Did he identify who he was?

A If he did, you know, I don't recall. Do you

understand?

Q Did he try to get you to change your testimony in any way?

A To change my testimony?

Q Yes.

A No, he didn't try to get me to change my testimony.

Q He just simply asked you questions?

A Yes.

Q Did you give him answers?

A My age, you know, about did I have any problems.

THE COURT: The government purpose wasn't for this.

MR. KENNEDY: I just want to make that absolutely clear.

THE COURT: It is clear to me.

The purpose was after this conversation somebody appeared from the union on the scene. I don't know what that is but that is the sole purpose.

MR. KENNEDY: If that is the sole purpose I am sure Mr.Reardon can clear this up.

MR. GLASSMAN: That is correct, your Honor.

Q Mr. Joquin, in the time that you have been

associated with the operating engineers, do you have any complaints at all about Local 14?

A 14?

Q Yes.

A Listen, 14, I am trying to get stable in 15, do you understand?

Q Have you any complaints about Local 14?

A Listen, I don't even try -- no, okay, no. I don't have no complaints but I don't bother to try, you know.

Q You answered the question, Mr. Joquin.

A Okay.

MR.KENNEDY: I have no further questions.

BY MR. BRADY:

Q Mr. Joquin, in relation to the school that you attended, the Interstate School --

A Yes.

Q How many hours a day is it that you went to school?

A At Interstate?

Q Yes.

A Eight hours.

Q What did you do for those eight hours?

A Well, we had class orientation. Then they took

us out to the machine, showed us how to maintain the machines, how to oil it, grease it and what have you. Do you understand?

Q Yes, I do.

MR. Joquin, how many hours a day were you in the classroom?

A Right offhand I can't recall, do you understand? I don't know exactly.

Q Did the hours that you stayed in the classroom change during the schooling or did it stay the same? Did you spend the same hours in the classroom every day?

A Well, take for instance like some day it rained. We stayed in the class practically all day, we didn't go to the field.

So like I said, I have no recollection of how long we stayed in the classroom.

Q If it wasn't raining how long would you stay in the classroom?

A How long?

Q Yes.

A Anywhere to maybe an hour or less.

Q Less than an hour?

A Like I said, I don't have no exact time.

THE COURT: Most of this was operation, is that

right?

THE WITNESS: Yes, sir.

Q How long were you in the school before you started actually operating?

A Let's see. Now, I went to school one Saturday and --

Q Talking about interstate now.

A That is what I am telling you about. I went to school the day that I was supposed to report. So I went to a little more briefing like I had to pay, you know, ante up some more money and after I got through going through interrogation, then I was told to go to the classroom.

Over at the classroom we had like orientation. Around about that time the instructor was familiarizing everybody with the rest of the students, do you understand? So all we did that day was practically a rap session.

Then the next day we started performing on the equipment.

Q Operating right away?

A Yes.

Q Do you know how many pieces of equipment they had out there?

A At Interstate?

Q Yes, sir.

A I will try to give you the best of my ability.

Q Just in rough numbers.

A What kind of equipment they had out there?

Q Yes.

A A scraper out there, motor scraper.

Q John Deere?

A Yes. They had a 450 John Deere, a 350 bulldozer, a backhoe; they had maybe one or two bulldozers, maybe two front end loaders and maybe two backhoes.

Q What kind of work did they have you doing?

A Like moving earth, pushing it back and forth, digging with the backhoe and going around the field with the motor scraper, operating it.

Q Did they have you perform any specific tasks?

A No, nothing specific.

Q Any time limits for you to do a certain piece of work?

A Listen, there were three guys --

Q Was there a time limit?

A Time limit?

Q On any of the work you performed.

A If you want an answer to that?

Q Yes, I do.

A I would say no. Do you understand?

Q Now, you say you got out of school and you were working for some various contractors?

A Yes.

Q Do you know the names or can you recall the names of those contractors?

A Yes.

Q Who were they?

A Cross Bay.

Q Right out of school?

A Yes.

Q What work were you doing for Cross Bay?

A Well, I didn't actually do no work for him. I was trying to get hooked up, trying to get affiliated with him. Like, you know, trying to get in.

Q You weren't on Cross Bay's payroll?

A No. I didn't draw no pay at all. All I did was change flat tires hoping I could work my way in and get on the payroll.

Q But that never came about?

A That never happened.

Q Did he ever give you an opportunity to work any equipment?

A Yes.

Q What equipment did you work with Cross Bay?

A The motor scraper, the Euclid 10.

Q Did you ask for a job with him operating the motor scraper?

A I asked for a job.

Q Did he give it to you?

A This was the proposition, that he was going to pay me $5.50 but I had to work like nine hours a day, do you understand? And he wanted me on like seven days a week. I couldn't fight that.

Q You didn't accept that job at any rate?

A Right.

Q This was right when you came out of school?

A Yes.

Q Any other contractors that you knocked around with?

A Yes.

Q Who else?

A L.B. Griffin.

Q Were you on L.B. Griffin's payroll?

A No.

Q What did you do with Griffin?

A I did the same thing, do you understand? He promised to give me a workout on his equipment and if I qualified, I was able to obtain a job.

Q Did he give you that workout?

A No.

Q Did you ever geton his equipment at all?

A No.

Q What did you do with Griffin?

A Nothing. I just left him.

Q How long were you with him?

A No period of time, no certain length of time; maybe one or two days. When they didn't keep their promise like.

Q This was the black contractor?

A Correct.

Q Cross Bay, how long were you with Cross Bay?

A About the same length of time, three or four days.

Q Again, you weren't on the payroll?

A Right.

Q Any other contractors that you worked with?

A Yes.

Q Who else?

A A plumbing contractor.

Q Do you recall his name?

A Yes. I don't know his full name but I know the last was Levine.

Q Where was he located?

A In Brooklyn.

Q How did you find Levine Plumbing or get there?

A Well, I was involved with a civil engineer.

Q How were you involved with a civil engineer?

A He was knocking around himself trying to get situated so somehow we encountered, do you understand, and we became like attached.

Q You looked for work together?

A Yes, going around to different sites, trying to get hooked up.

I introduced him to this association that I was affiliated with, Alcoa, this black contractor's association, so through him, this here plumbing contractor, like this guy, he was able to go to different departments of the city and get blueprints and like do takeoffs, estimations.

Q Were you doing any engineering work for him?

A I am getting to it now if you will let me explain.

Q I certainly will.

A Through him, he introduced me to the black contractor.

Q Is that Griffin?

A No, Levine. Levine was working under a white

contractor because the white contractor, he was an elderly fellow, he couldn't do the work, you know, too much, so he got the black contractor and broke him in. Do you understand?

Q What was this black contractor doing, plumbing work?

A Yes.

Q What did you have to do with him?

A Operating the backhoe, Case 530.

Q A Case backhoe?

A Right.

Q How long a period of time did you operate the backhoe?

A Maybe around two weeks.

Q Were you on his payroll?

A Yes.

Q What happened then? Did the job terminate?

A If you let me answer the question.

Q I certainly will.

A The job didn't exactly terminate. It is just that like I didn't like the contractor's attitude, do you understand? Because he felt as though I didn't have a book, so he was going to take advantage of me, pay me way below scale, do you understand?

Q Did he tell you that because you didn't have a book? Did he mention that to you?

A It was obvious that he knew I didn't have a book.

Q Did he tell you that?

A What?

Q That because you didn't have a book you would be paid less?

A No, he didn't tell me that. Just that when I did a week's work, you know, I got my pay, my pay stub. I found like my wages was way below, you know, scale.

Q Did you make an agreement to work with him at a particular rate of pay before you started work?

A No, I didn't make no agreement. I just took it for granted because I was green, I guess, I didn't know any better.

Q What did you think the scale was?

A At that time I thought the scale was something like $7.50.

Q Where did you get that idea?

A I am telling you that is what I thought.

Q At any rate you quit that job?

A Yes.

Q And now, did you work for some other contractor?

A Yes.

Q Who was that?

A He was a cement contractor. His name was -- the reason I can't think offhand -- but nevertheless he was a cement contractor.

Q All right.

A I met him through the association that I was affiliated with.

Q What did you do for the cement contractor?

A Well, he wanted me to supervise plus he promised to let me work his backhoe which was a 707, John Deere.

Q Did you in fact work this backhoe for him?

A I never got the chance to operate the backhoe, do you understand? But I worked for him.

Q But did you ever get up in the seat and operate it even though you weren't paid to do that?

A No, because at that particular time he had another operator which he didn't have a book. He was exploiting this guy.

Q What did you do for this cement contractor?

A Well, for him I did like laboring jobs like broke up cement with the jackhammer and like spread the cement.

Q How long did that job last?

A That didn't last long.

Q About how long?

A I would say maybe about a week or two weeks.

Q Did you leave this job?

A Yes.

Q Did you work for some other contractor thereafter?

A No.

Q Was it about this time that you went down to Local 15's day room?

A Was it about this time that I went to the Local?

Q The union.

A Yes, I was going in between back and forth, like in between these different jobs.

Q Do you recall, you said you saw Tommy Maguire the first time you went down?

A Yes.

Q Senior or junior?

A Junior.

Q Do you know whether that was in the summer of 1970 you say?

A Yes.

Q Approximately?

A Yes.

THE COURT: We will take a short recess at this time.

(Recess.)

T2

BY MR. BRADY:

Q Mr. Joquin, when you started in to the school, you said -- you named the various equipment that you worked on at that time in the school?

A Which school?

Q The Local 15 school -- the D-4, D-7, the 955, the 977 and the 966.

Was that equipment present at the Interstate school as well?

A Was the same equipment there?

Q Yes.

A No.

Q And was it helpful to you to go to this school, the Local 15 school?

A Yes, it was helpful.

Q Now you said that you got a job about a month later after you started school, something like that, is that correct?

A Yes.

Q And then you were running a cement buggy.

A Yes.

Q And then you said there was a strike. Do you recall how long the strike was?

A How long it lasted?

Q Yes.

A It lasted a good while -- I don't know how long it lasted. I know it knocked me out of work.

Q Was it a number of months?

A Yes.

Q Then you were offered a job on heaters?

A Heaters?

Q Yes, seven days a week, which you couldn't take?

A Yes.

Q At that time did you ask to get an excuse for absence from the school in order to take this job?

A Did I ask?

Q Yes.

A No, I didn't.

Q You just turned down the job, isn't that so?

A I just turned down the job?

Q Yes.

A Well, I turned down the job -- do you mind if I explain?

Q Not at all.

A I turned down the job, like I said, I thought it was going to interfere with me getting my book, because I wasn't able to pull the hours. I had to be in school 7 o'clock or 8 o'clock Saturday morning.

Q And can you imagine me coming off a job, 8 to 12, you know, Friday, and then have to go to school Saturday morning and put in another time.

Q Would you call a heater job a suicide job?

A Is that a suicide job?

Q Yes.

A No, a heating job is not.

Q As a matter of fact, you have had a job in the Bronx working on heaters seven days a week recently?

A Yes.

Q Was that a suicide job?

A No, it wasn't.

Q Was it a hard job?

A No, it wasn't a hard job.

Q It was an easy job?

A It was an easy job.

THE COURT: He has his book now.

MR. BRADY: Your Honor, his testimony is that he still gets suicide jobs.

THE COURT: He has his reasons for not taking them.

Q Now you said that you had a job on a truck crane, the longest job you had was five and a half months?

A Yes.

Q Was that a job -- for whom were you working?

A For Catapano.

Q Can you tell us what happened on that job?

A Good point -- I am glad you brought that out. Well, I can tell you what happened. I got this job. I had just left a pollution plant out in Richmond Terrace --

Q You were working on a pollution plant?

A Yes.

Q How long had you been working there?

A Maybe two or three weeks, and from there, for some reason, they broke up that gang.

Q What gang?

A That job that was on the well point job, on the pollution job in Richmond Terrace, in Staten Island. Okay?

Q Was that gang you were in?

A Yes, okay, so from there I got transferred to Catapano, you understand, as an oiler on a truck crane.

Q Yes.

A Driving it, you understand. So I got this job and I was driving this crane. Well, when I got this job I noticed that the emergency brakes, you understand, wasn't working, and so in order, like to stop it from rolling you had to block it up and had to put a block underneath the

foot pedal, you understand, but in doing so the air would still leak out -- like in a half an hour, under the foot service brake, plus the crane operator also taught me that whenever I shut the machine down to put the gear in first gear so the machine won't roll on, you know, plus it had other faults about this here rig, and I kept complaining to the master mechanic who at that time was named Manny -- that was his last name, I believe -- he was the master mechanic -- and I kept explaining him that the machine was in bad condition, and somehow -- like I kept complaining, then I kept telling him that they had oil leaks on the cleave, like on the pulley up to the tag line, and I kept telling him there was leakage, so they kept telling me they was going to fix it. Well, they never got around to fixing it.

So somehow or other the operator that I was working with, his name was Eddy, he went on vacation, so at that particular time another operator was coming back -- his name was McDonald -- we called him Mac, you understand -- and I was operating the crane -- that was No. 13, you understand, and they transferred me over to another crane, which was No. 9, and everything on this here crane, you understand, was faulty. The choke stuck; the brake stuck. Everything stuck, and, you understand, I

told the foreman on the job -- I can't recall his name -- that the machine was in bad condition. So anyway, the crane operator claimed that upstairs was working better -- what I mean by "upstairs," the crane part of the rig was all right, but I told him, listen, the brake part wasn't working correctly, you know, but nevertheless he wanted to take this crane out. So with encouragement from the foreman I took the crane out.

Well, somehow I was driving this crane down the road and this crane ceased to function -- it stopped on the road. So I noticed steam or heat come out of the radiator, so I am thinking maybe it ran out of water or something, so I got out to check it out, and when I pulled the head up to unscrew the cap, the cap wasn't tight -- as soon as I touched it the cap blew up, you understand, and I got burned, you understand, and, you know, I was knocked over -- I was knocked over the side ofthe rig. At any rate, they had to pull the crane to the side, and they claimed the motor had seized or something wasn't working in it properly. So then -- no, maybe a few days later, the operator that I was working with, he came back, Johnny -- Eddie, rather. So from there we was working on Hyland Boulevard. All I had to do was back the crane up the block and drive it down the block,

back and forth.

Q That is all you had to do?

A Pardon?

Q That is all you had to do?

A Right -- you know, like maintenance -- take care of the -- oil and grease it, you understand. So at that particular time --

Q Is that a hard job?

A Oiling?

Q Yes.

A It is not a hard job.

Q Is it a suicide job?

A Yes -- well, no -- when the mechanism is not working correctly it got to be, you know, a suicide job, because, you know, like I am on a hill, you understand, so we moved to another location, you understand.

Now I have been complaining all this time about the emergency brakes. Well, it just happens around about lunchtime one afternoon it happened -- yes, it happened September 17, last year, you understand -- it was about a quarter to 12 and I was getting off the rig, I had secured the rig and the regular operator told me how I put the gear in first gear, turn off the ignition, block up the foot pedal, block up the wheels, and then I left

the crane operator there and I went to lunch, like to get some coffee --

Q What happened to the crane?

A What happened to the crane?

Q Yes.

A About a quarter after 12 I heard a laborer yelling that the crane is rolling down the hill, you understand, so that I ran to the corner -- me and the foreman, and we went chasing after the crane because I couldn't believe the crane was rolling down the hill. So when I got there the boom was up in the air, you understand -- it was hitting these tension wires that was strung across, you know, so with that we had to burn back and run back because everything was exploding.

Q It knocked a pole down, didn't it?

A It almost ran into somebody's house, it came that close to somebody's house, you understand.

Okay, getting back to the incident, you understand -- okay, they got like the Fire Department came out there, the Police Department came out there --

Q Okay --

A Wait a minute. I want to tell this because I want to get this off my chest, you understand.

The Fire Department, the Police Department and

Con Ed came up there. Somehow or other they got this thing hooked back together again.

Q The power on?

A Yes, the restored the guys -- they gave him a few bucks, so Tony Lilly called us over -- he is the general foreman, so he was talking to me and the black foreman, and he was telling us, "Listen, both you guys have to work together," you understand. So I told Tony what happened -- I said, "Listen, Tony," what I got through telling you just now -- and he says, "You two guys have to get together, work together."

I said okay -- and everything was hunky-dory, you understand. But the point I am making is this, when the same crane operator came back he didn't ask me what happened -- he went down the hill, and when he went down the hill and came back he seen me -- he told me -- he said I had better start looking for another job.

Q In fact, you were let go that day?

A Yes, they called my home --

Q I am not --

MR. GLASSMAN: I would like the witness to continue.

THE WITNESS: I want to finish the story, your Honor. I want to get this off my chest.

A (Continuing) And everything was hunky-dory. He told me and the black foreman to work together. So I said, "Okay," but, you know, I told him what happened -- anyway, I left with the feeling that everything was straightened out. When I got home that night, about 6 o'clock or 6.30, I got a phone call from this man, the general foreman, Tony Lilly, "Listen, you don't need to bother coming in to work tomorrow. We will mail you the check."

Okay. Now this is the point I want to get to.

The next day I go to the union hall. Frank calls me in the office. Frank told me that the people want to press charges.

So I said, "Frank, that is how they feel, if that is what they want, they will get a fight," you understand. So before that -- I mean -- in that case there, like the union is supposed to protect me, but nobody came to my aid. They just took the general contractor's word, you understand, and did not -- like say nothing to me, you understand, and like this has been happening on different jobs.

THE COURT: Did they press charges against you?

THE WITNESS: They did not press charges against me, your Honor, but instances like that can build up a

bad record against you, you understand.

THE COURT: But they did not bring charges against you?

THE WITNESS: Well, listen, I thought -- Frank told me they wanted to press charges against me and he did not follow through, and I told him my story, and he was my business agent, and he is supposed to represent me.

THE COURT: But they did not bring charges?

THE WITNESS: Yes, but, you know, like --

THE COURT: All right.

Q Mr. Joquin, as an oiler and driver of that crane it is your responsibility to park that crane, isn't that so?

A Yes, it was my -- what did you say?

Q It was your responsibility to park that crane properly?

A Yes, I did this.

Q Were there 12 x 12 timber blocks available to block the wheels?

A Listen --

Q No. Were there or not?

A Was that available?

Q Yes.

A That was all around.

Q Weren't you able to block them with 12 x 12s?

A It wasn't my duties to block the wheels up; it was the laborer's duty to block the wheels up.

Q You were in charge of that crane as the oiler anddriver of that crane,isn't that so?

A Yes.

3

THE COURT: I don't want to decide this case on an incident like that.

MR. BRADY: All right, your Honor, I will go ahead.

Just one other question.

Q Is it your responsibility to check the water in the crane?

A Correct.

Q Allright.

A Just a moment, hold it -- just a moment.

MR. BRADY: Do you want that answer, your Honor? I do not necessarily want it.

THE COURT: We cannot litigate this matter now. They did not bring charges against you.

Q Mr. Joquin --

A It is like, you know, a bad mark against you, you understand.

Q Mr. Joquin, on the well point jobs that you were

talking about, isn't it a fact that you were foreman on some of the well point jobs?

A On some of them -- just one, and the reason I got it --

Q Wait a minute. Weren't you foreman on a well point job?

A Yes.

Q And what is the rate paid to you as a well point foreman?

A I guess you are supposed to make $3 more, something like that, you know, to your rates.

Q Well, what is the rate?

A Let me see -- what is the rates? I don't know exactly offhand what was the rates.

Q How much were you making a week as a foreman on a well point job?

A Well, let me see. At that time it was 9 something an hour, you understand, and I guess it came out to 390 something, 380 something, so at times I have been making at least -- maybe $400 at the end of the week, you know -- that is a rough estimate.

Q What rate of pay were you paid down in the tunnel?

A Down in the tunnel?

Q Yes.

A I don't have -- you know, I can't remember exactly the rates, but at the time I believe it was 9 something an hour, you understand, plus you got tunnel time for staying down there, or something like that.

Q You did get an extra payment for working in the tunnel, isn't that so?

A Yes.

Q Do you recall what time it was when John Murphy came out to see you that day?

A About a quarter to 12.

Q Who was the business representative for that area?

A I don't know. Danny sent me out on the job -- for Long Island?

Q Yes.

A I think Johnny Murphy.

Q That is Johnny Murphy's area, isn't it?

A Well, like --

Q That is his area?

A Yes, that is his area.

MR. BRADY: I have no further questions.

THE COURT: Any further questions?

MR. BRADY: Oh, I have one other question -- I am sorry, your Honor, I forgot one thing.

BY MR. BRADY:

Q Do you recall being sent to a job for the R & Z Contracting?

A No, I don't recall.

Q 104th Street and Farragut Road, in East New York?

A No.

Q With a 580 backhoe?

A No, you have the wrong -- what was that?

Q A 580 backhoe.

A Where is this place again?

Q 104th Street and Farragut Road in Brooklyn.

A No, offhand I don't recall.

Q Well, were you ever discharged from any other job aside from the one we discussed at such length?

A Yes.

Q What job were you discharged from?

A One time I was sent to Slattery on a D-8, you understand -- a D-8 dozer that was ripping up the highway.

Q When was that?

A I can't remember exactly what date it was.

Q What year?

A It happened some time in 1973.

Q And what happened?

A What happened? The guy pulled me off the D-8 --

the foreman or whoever he was, and he put me on a 977, and I worked on that for the rest of the day. In other words, in the morning I was on the D-8, ripping up the ground, and then that afternoon he transferred me over to the 977, and I was lifting up cement blocks, you know, like taking them from one spot and putting them in another spot -- like from here (indicating) to over here (indicating) -- cleaning up the roadway.

Q How did it come that you were discharged from the job?

A You know what? That's a good point. I don't know. All I know is that afternoon the guy, he didn't tell me nothing -- he just gave me my check and said that was it.

Q Well, did you believe that the job was to run for a longer period of time?

A Yes, I believed it was supposed to run for a longer period of time.

Q Was any reason given to you for your discharge?

A Listen, I don't --

Q Did you ask why you were being discharged?

A Did I ask why?

Q Yes.

A No, I didn't ask why.

Q Did you ask the business representative why?

A Listen. Take, for instance --

Q No. Did you ask the business representative?

A No, I didn't.

Q And you can't recall ever working for R & Z Contracting?

A No, I don't.

MR. BRADY: I have no further questions.

MR. GLASSMAN: Just a few questions, your Honor.

REDIRECT EXAMINATION

BY MR. GLASSMAN:

Q Mr. Joquin, you said you were a foreman on a well point job?

A Yes.

Q How long were you the foreman?

A For a week.

Q How did you get the job?

A Well, that is because a friend of mine, he didn't have transportation to go to the job, so he spoke to one of the delegates saying that Bill got a car, which is me, because I was able to transport him out to the job. So he found it very difficult, like to commute back and forth because he was living up in the Bronx and the job was out there in Brooklyn near Coney Island, you understand,

so being that I had the transportation, you understand, like I was left as the foreman.

MR. GLASSMAN: No further questions.

RECROSS EXAMINATION

BY MR. BRADY:

Q Just on that one point, Mr Joquin, couldn't you have been left on that job as a regular well point worker rather than a foreman?

A Could I?

Q Yes.

A Yes, that could happen.

MR. BRADY: Okay, no further questions.

THE COURT: You are excused.

(Witness excused.)

THE COURT: Well, we will never get through with the next witness before we adjourn.

MR. DEVORKIN: It is up to your Honor. We can begin.

THE COURT: Well, I am going to adjourn in about five minues.

MR. DEVORKIN: All right, that will be fine.

THE COURT: We will adjourn tuntil 10 o'clock Monday. We will start at 10 on Monday.

THE CLERK: Court stands adjourned until 10.00 a.m. Monday.

(Adjourned to September 30, 1974, at 10.00 a.m.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Keith Wilson	1071	1112	1146 1155	1151
William E. Joquin	1157	1196	1226	1227

EXHIBIT INDEX

Plaintiff	Identification	In Evidence
88		1189

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff,

vs. 72 Civ. 2498 (CHT)

LOCAL 14-14B INTERNATIONAL UNION OF OPERATING ENGINEERS, et al.,
Defendants.

New York, September 30, 1974;
10.00 A.M.

Trial resumed.

- -

MR. GLASSMAN: The government calls Mr. White.

R O B E R T W H I T E, called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

MR. KENNEDY: At this time I would call the Court's attention to the fact that I do not see this witness's name on the government list of witnesses.

MR. GLASSMAN: We did not know at the time the witness list was prepared that Mr. White would testify and Mr. White had in fact informed the union prior to coming here last week that he would testify.

THE COURT: Were you aware he was going to testify?

MR. KENNEDY: I had no idea. I don't know what union he belongs to.

MR. GLASSMAN: I will ask Mr. White to tells us who did he inform that you will testify?

THE WITNESS: My delegate, Mr. John Murphy.

MR. BRADY: This is the first knowledge I had.

THE COURT: All right.

DIRECT EXAMINATION

BY MR. GLASSMAN:

Q Mr. White, were you subpoenaed to testify here today?

A Yes.

Q How old are you, Mr. White?

A 42.

Q Are you married?

A Yes.

Q Do you have any children?

A Four.

Q For the record, what is your race?

A Negro.

Q Are you a member of a local union in New York?

A Yes.

Q What union?

A Local 15, Operating Engineers.

Q Mr. White, when did you first learn to operate heavy equipment?

A I had on-the-job training while in Military Service.

Q When was that?

A Im 1952.

Q What kind of on-the-job training did you get on heavy equipment?

A I had training on dozers, bulldozers and back-hoes.

MR. KENNEDY: Your Honor, the examiner used the expression "on-the-job training," and I didn't know whether he meant in service on-the-job training or actual on-the-job training after he got outside of the Service.

MR. GLASSMAN: We are using the witness's own terminology in terms of his military training.

MR. KENNEDY: Thank you.

Q Over what period of time did you obtain the on-the-job training in the Military?

A About a year.

Q Did you receive any technical training after you got out of the Military?

A Yes.

Q Where did you go to school?

A The Hobart Welding School in Troy, Ohio.

Q What were you taught at the Hobart Welding

School?

A I was taught basic arc welding, advance arc welding, pipe welding, tungsten inert gas welding and flame-cutting with an acetylene torch and acetylene welding.

Q About how long a course did you take at Hobart?

A About six months.

Q Are you a certified welder?

A Yes, I am.

Q By whom were you certified?

A The City of New York.

Q When did you actually get out of school, out of Hobart, about what year?

A I got out in 1956.

Q Did you then come back to New York?

A Yes.

Q What kind of work did you do in New York after you came back?

A I was working in a boiler manufacturing outfit.

Q What kind of work were you doing there?

A Welding.

Q What did you do after you worked for that firm?

A I worked for several other employers in the New York area as a welder.

Q What kind of employers did you work for in the next few years?

A Ironwork. I worked for the ironworker, Ornamental Ironwork, Construction Ironwork.

Q What type of job locations did you work at?

A Building construction.

Q Did you ever work in the shipyards?

A Yes.

Q What shipyards did you work in?

A I worked for Todd, Bethelehem Steel and Rodermond Industries and also in Groton, Connecticut, not New York, but out of town, Groton.

Q What type of work did you do in the shipyards?

A I did welding, all positions.

Q When you say all positions, do all welders weld in all positions?

A No, they don't.

Q Can you explain the difference between the positions.

A I took a test which would qualify me to weld in all positions, which consisted of the flat, vertical and overhead positions.

Q Were you a member of a union in the shipyard?

A Yes.

Q Do you remember which union?

A Local 107 of the Blacksmith Forgers and Helpers Union of the Boilermakers.

Q Do you remember approximately what pay you received while you were in the shipyards?

A About $4.50 an hour, something in that area.

2-2

Q Approximately what period of time did you work in the shipyards, if you remember?

A The period from, say, about 1956 up until about 1969.

Q You said you worked in Connecticut.

Could you des ribe for us the job in Connecticut?

A I was doing arc welding on a submarine up there that they was constructing.

Q You say on a submarine?

A Yes, submarine, yes for the navy department.

Q Do you remember the name of the contractor for whom you worked?

A General Dynamics Electric Boat, Groton, Connecticut.

Q Did you receive any particular training for that job?

A I had about three weeks of training in welding while I was there, prior to my employment there.

Q Who was that training given by?

A It was given by the General Dynamics.

Q Why did you leave General Dynamics?

A Well, the traveling was quite a ways from New York and I had to stay up there on weekends and I found it very expensive to live up there in that area while my family was being back here in the City of New York, so I came back and applied for work here.

Q When was the first time you start work in the

jurisdiction of Local 14 or Local 15 of the Operating Engineers.

A It was November, 1972.

Q Did you go to the union hall?

A Yes.

Q Who did you talk to when you first went there?

A I spoke to Mr. Murphy -- not Mr. Murphy; Mr. Maguire, Jr.

Q What did you tell him when you got there?

A I told him that I was recommended to the local by a fellow from Fight Back and that I was a certified welder.

Q What is Fight Back, for the record?

A It's an organization, I think the primary purpose is the recruitment of minorities into the construction industry here in the City of New York.

Q Did you tell Mr. Maguire that you were a certified welder?

A Yes, I told him that I was a certified welder.

Q What did he tell you?

A He said that they didn't do business with Fight Back and he asked to see my certificate, which I showed it to him and he said "Very good, number one" and he said that they were slow at the time but if I wanted to shape the hall, I am welcome to shape the hall.

Q Were you told to sign up on a list, if you remember?

A At that time, no.

Q Did you go back to the hall again at some subsequent time?

A I went back to the hall in '73, about, let's see, I think about the first, sometime in January.

Q What happened when you got there?

A I was sitting around mostly waiting for a job.

Q Did you talk to anyone when you got into the hall?

A I spoke to a fellow sitting in the hall, I don't recall his name, and he had a New York City class 2 certificate and he was -- I overheard a conversation going on between him and MR. Maguire and I heard Mr. Maguire tell him that if he had a class one certificate, that he may be able to help him and, if he didn't, he couldn't do anything for him at that time but, if he got a number one certificate, he probably would be able to help him in the future.

So, as this fellow was leaving the hall, I spoke to him regarding this and he told me that he was sent there by the Recruitment Training Program and that they told him that they were interested in certified welders and at that time I told him that I was a number one certified welder and I was waiting and I never got any jobs and I asked him the address of this place where he went, whom sent him out there and he gave me the address and I told him I was going to go

there and see if they could refer me back to the local.

Q You said he was a number 2 welder?

A Yes.

Q And you were a number 1 welder?

A Yes.

Q Can you explain, for the court, the difference between the number 1 and a number 2 welder.

A A number 1, you are restricted to the flat position only and I think there is a thickness of the metal about three-quarters of an inch.

Q Is that number 1 or number 2?

A That's 2. Number 2. With number 1, there is no thickness. It's all thicknesses of metal and you are qualified to weld in all positions.

Q About how long did you stay in the hall without a job at that time?

A I would say about a week.

Q Did you then go to RTP?

A Yes, I did. I went to RTP and they interviewed me and asked me about my work background and they gave me a referral slip to take back to the union, to Mr. Daniel Murphy.

Q Did RTP tell you what it would do for you?

A Well, they said -- they told me the purpose of

their existence, thatthey were recruiting minorities and also journeymen and they said that they had an agreement with the local whereby they would take a journeyman, and after seven days of full employment, that the journeyman would be admitted to the union with full journeyman rights.

Q Did they then send you down to the union, again?

A Yes.

Q Who did you see that time?

A I saw Mr. Danny -- Daniel Murphy.

Q What did he tell you?

A He looked at the referral slip and he put my name down on a -- on the roster for employment and told me that I could wait around the hall, shape the hall.

T3

Q Did you subsequently get a job through Mr. Murphy?

A Yes.

Q Where was that job?

A It was with Perini Construction, a tunnel job at 79th Street and West Side Highway.

Q Do you remember how long that job lasted?

A Two days.

Q Did you have any particular problems on that job?

A No, I didn't have any problems. I was just told that the regular man at the job was out sick and that he was coming back to the job. I was laid off.

Q Did you go back to the hall again?

A Yes.

Q What procedures were followed in referring you out for work? What information was requested by the union in the hall?

A I don't quite understand.

Q Were you asked any questions before you were put on a referral list as to what you could do?

A No, because I gave him, RTP gave a letter stating my qualifications and jobs I had.

Q Were you asked whether you were a union man or not?

A Yes.

Q What did they ask you?

A They asked me if I belonged to any of the construction unions. I said no, I was working on permit for a number of years with Local 580 of the International Union of Structural Iron Workers and also with the Elevator Construction Local and the Stonesetter locals.

Q Was there any particular order in which the men were referred out from the hall at that time?

A Well, he called --

MR. KENNEDY: Talking about Local 580?

MR. GLASSMAN: No, Local 15.

MR. KENNEDY: Thank you.

A Well, he called most of the men by their names and when he wanted permit guys he usually asked if there were any certified welders present.

Q If there were several present who would get the job first? Any particular order in which people would be given a job if they were equally qualified?

A The first one to get to the window would get the job.

Q Would that be the first man who came into the hall that morning?

A Pardon me?

Q Would that necessarily be the first person who came in the hall that morning?

A I would say yes.

Q Were you referred out to work thereafter?

A Yes.

Q What kind of jobs did you get?

A I was referred on another tunnel job for about two weeks with Water Tunnel Contractors. It was in Astoria, Queens.

Q How long was that job?

A Two weeks.

Q Do you know why you were laid off that job?

A I was told that the fellow who had that job before I got there was on vacation and that he was coming back to the job.

Q Did you ever get a book on that job?

A No.

Q Did you ever say anything to the union officer about getting a book?

A Yes.

Q If you remember when?

A It was in March of 1973 while I was on a tunnel job at 181st Street and Harlem River. I was on the day shift which started at 7 o'clock and the hall usually opened around

6 and I went to the hall to see Mr. McGuire, but he wasn't in at the time and I spoke to another delegate, Mr. Murphy and I explained to him that I was referred to the union by RTP with the understanding after seven days of employment that I would be admitted to the union.

He then said that he had no knowledge of such agreement with RTP and he couldn't give me a definite date as to when I would be admitted to the union, but he said eventually I would get into the union.

Q Did he say about how long it might be before you got into the union?

A No, he didn't say.

Q How long were you actually on that tunnel job?

A I was on that tunnel job about a month.

Q Did you get your book on that job?

A No, I didn't.

Q Do you know why you were laid off from that job?

A I was told that I went there to relieve one of the regulars who was on vacation and that he was coming back to the job.

Q Do you know who the foreman was on that job?

A He was the maintenance foreman, John Casolo.

Q Did he ever complain about your work?

A No. He said that he regretted having to let me

go and that I was a good worker but there was nothing he could do about it and that he received orders from the union to lay me off.

Q Did he tell you from whom he received such orders?

A Yes, he said Mr. McGuire.

Q About what period of time was that?

A The latter part of March, 1973.

Q Did you complain to anyone about being laid off?

A Yes. I complained to the Contract Compliance, 250 Broadway, a fellow by the name of Mr. James D. Norton.

He asked me how many minorities did they have on the job and how many did they have on my shift and that if my story was true, he was going to check it out, and that the contractor had agreed with them to take on a certain amount of minorities and if this was the case, he was going to have me reinstated on this job.

Q How many operating engineers were on that job, if you know?

A Do you mean heavy equipment?

Q Yes, heavy equipment, members under Local 14's or Local 15's jurisdiction.

MR. KENNEDY: I object unless he can identify the Local 14 men on the job.

THE COURT: Maybe he can and maybe he can't.

Q How many total men were on that job in Local 14 or Local 15 jurisdiction?

A Approximately 40, I would say, between the two locals.

Q Do you know how many with each local?

A No, I don't. I can't say with accuracy.

Q And do you know approximately how many welders were on that job?

A On my shift?

Q Yes.

A About 10 or 15, I would say.

Q How many black welders?

A I was working in the tunnel and there weren't any, I was the only one in the tunnel.

I don't know how many they had upstairs in the shop because they did have welders upstairs in the shop.

Q Were you ever reinstated on that job?

A No. I didn't follow through on this because there was a bit of controversy going on with the City and the contractor because the reinforcement steel they were putting up inside the tunnel wasn't sufficient for the weight and they laid off the entire crew up there. So I didn't press this any further.

Q How long after you were paid off did that happen?

A About three or four weeks, I would say.

Q Did you go back and shape at the hall after that?

A Yes.

Q Did you get another job?

A Yes. I got another job I think within a week. It was with underpinning foundation. They are in Long Island City and I was working on 57th Street in Manhattan. This job lasted about two weeks.

Q Doyou know why you were laid off that job?

A They had a steady book man on the job and I was told by the supervisor that they no longer needed my service and that he was going to use another method than driving the piles in the ground.

Q What kind of work were you doing on that job?

A I was welding.

Q Where did you work after that?

A At Worth Street and Broadway with Horn Construction.

Q Is that on the Federal Building?

A Yes.

Q The Federal Building behind 26 Federal Plaza?

A Yes.

Q About how long did you work on that job?

A I worked on that job about five or six months.

Q Did you get your book right away?

A I believe after I was on the job about a month or so I got the book, yes.

Q How did you get your book?

A Mr. McGuire called one of the workers on the job and told him to gell me to call the hall regarding the union membership.

When I called the hall he told me the time and place to appear to be initiated in the union and the amount of money to bring with me.

Q Had you talked to any other organization about getting a book on that job?

A Yes. I called RTP on a number occasions, I called Mr. Smallwood up at the Environmental Protection Agency in the same building regarding my membership in the union.

Q Who did you talk to at RTP, if you remember?

A Don Roffles.

Q When you first went what did you say and what did he sav?

A I told him the number of months that I had been working on permit.

Q How many months had that been at that time?

A About four or five months.

Q About when was this that you went to him?

A I think it was some time in April or May, about the latter part of April.

Q 1973?

A Yes.

Q What did he tell you?

A I explained the situation, the number of different jobs and what not, and I told him that I wanted to get into the union and they told me the only reason I took the job was because they told me after seven days that I would be admitted to the local.

He said that he was going to send Mr. Murphy a letter telling about my qualifications and the number of jobs I worked on and if he didn't respond, if I didn't get admitted to the union within a period of five days, he was going to turn the case over to the Justice Department.

Q Do you know if he wrote any such letter?

A No, I don't. This is what he told me that he was going to do.

Q Do you know if he met with any people in the union?

A I think some time thereafter, after that discussion, that he told me that he was going to have a meeting

with the president, Mr. Wharton, of the Operating Engineers.

Q Is that the president of a local union?

A Of the International.

Q Was it after that that you were told tocall Mr. McGuire to get your union book?

A Yes.

Q Did you ever talk to your supervisor on the job about getting a book?

A No.

Q Did you tell your supervisor after you got the book that you had a book?

A Yes.

Q Did it make any difference on the job?

A Well, he congratulated me and said, "Very good that you got into the local," and he said I had a job with the company as long as they had work for me.

Thereafter I stayed with Horn Construction Company the remainder of that year until it got slow.

Q Did you stay as a welder?

A Yes.

Q When you first got your book was it a Local 15 or Local 15-A?

A 15.

Q Do you know why you got a book in 15 instead of 15-A?

A My understanding is all welders would go to 15, all certified welders, that is.

Q Where did you work after you worked for Horn?

A After Horn I worked for Sperin & Slattery in Battery Park, New York City.

Q Did you have any problem on that job?

A Pardon me?

Q Did you have any problems on that job?

A Well, I didn't -- not that I recall, except when the job got slow. I was told by the master mechanic if I wanted to stay around and work with the maintenance foreman and assistant him in the operations on heavy equipment and so forth, and I agreed to do this and, shortly thereafter, I was called up by the master mechanic to work with the laborers as they -- you know, unloading a barge, which was alongside of the pier, and I refused to do it.

I told him that I was sent there as a welder and I would work as a maintenance man, something pertaining to my job but not as a laborer.

Shortly thereafter, I was told by the master mechanic that my service was no longer needed and I was laid off.

Q Did anyone ever contact the union officer about that?

A Not as I know of. I didn't.

Q Do you know if the master mechanic did?

A I imagine he did.

MR. KENNEDY: Objection.

MR. BRADY: Objection, your Honor.

THE COURT: Well, imagining he did; strike that.

Q Mr. White, have you ever personally been sick or had to temporarily leave a job yourself?

A No.

Q Have you ever had to leave a job for a brief time because someone else in your family was sick?

A Yes.

Q Who was that?

A It was July of this year. I had to go to Erie, Pennsylvania; my brother was ill.

Q How long did you have to go to Pennsylvania for?

A I was gone for about a week.

4-2

Q Did you tell anyone in the union?

A I called Mr. Murphy, my delegate, and I told him that I had to leave town.

Q What did he say to you?

A He said it was all right and whenever I wanted to leave to let him know and he would send someone out to replace me.

Q What happened when you came back from Pennsylvania?

A When I came back from Pennsylvania, I called the hall and he told me my job was available and that he had sent a fellow out there work while I was gone and he told me to call the maintenance foreman and inform him that I was coming

back to work, which I did, and the maintenance foreman said that he had to verify this with Mr. Murphy.

I went to work -- this was on a Friday and the following Monday I went to work and I worked two days and I was laid off.

Q Do you know why you were laid off?

A The contractor said that he no longer needed me and that he wasn't going to start the other section until a later date.

Q How did you look for jobs thereafter?

A I notified my delegates that I was out of work and I had got laid off and I put my name on the roster for work and, in the meantime, I shaped the hall for a few days and I started to looking on my own, you know, following ads in the paper out there on the Island and I found a job which is non-union.

I worked on that job for a couple of days and then I would call the hall daily and find out if there was any work available and I spoke to Mr. Murphy and he told me that I should come to the hall.

So, I quit this job and I went back to shaping the hall again for a couple of days,and then I got the job that I am on now, back with Horne again.

Q Where is that job?

A It's at the Manhattan Bridge, a tunnel job -- subway job, rather.

Q You said you looked for some jobs on your own for a while?

A Yes.

Q What kind of pay did you get on those jobs?

A I got $6 an hour as a pipe welder for Jerome Underpinning in Commack, Long Island.

Q Why did you take those jobs?

A I have responsibilities. I have a family and I also own a home and I have a mortgage payment and I didn't want to lose any time.

Q When you went back to the union hall, did anyone say anything to you about getting your own jobs?

A No.

Q When you came back to the hall, do you know if there were any other welders waiting for work?

A Yes. I would say there was about three or four.

Q Three or four certified welders?

A I don't know if they were certified. At least two of them were certified, I know, but they weren't members of the union. They were on permit.

At the time, I think I was the only member of the union that was unemployed, I believe.

Q The only certified welder unemployed?

A Union member. Only certified union member.

Q Where is this present job you are working on?

A Manhattan Bridge, Bowery and Canal.

Q Do you have any particular problems on that job?

A Well, I would say so because there is no maintenance foreman on this particular job and I am more or less working with the foreman who is out of another local of the Timberman's Local.

I had a few run-ins with him because he wanted to -- he authorized some of the laborers to make the lead connections on the welding machine and start the welding machine and I told him that was my responsibility and for them not to tamper around with the machine and they didn't listen; they continued to practice this.

I called the delegate on a number of occasions and I brought this to his attention.

He told me to tell the foreman to call him at the local.

Q Which delegate did you talk to?

A Mr. Murphy.

Q Did he come down to the job, himself?

A No, he didn't. He didn't come down.

Q Do you regard this as a safety problem?

A Pardon me?

Q Do you regard this as a safety problem?

A Yes, I would, yes.

Q Can you explain why this was a safety problem?

MR. BRADY: Your Honor, I will object to this line of questioning at this point. This has to do with a Timberman foreman and not with our union. I don't understand how this is discrimination.

MR. GLASSMAN: This has to do with a safety problem that the man saw on the job and whether he got representation from his union when he requested it.

MR. BRADY: Did it affect his time or wages on the job?

MR. GLASSMAN: You can ask the questions on cross-examination.

MR. BRADY: I would say it's improper.

MR. GLASSMAN: I would like to ask him why it was a problem.

THE COURT: Let's not go into every problem. No day is without a problem.

Let's go ahead.

Q Have you had any safety problems on any other jobs?

A With Queens Structure, the job I had before I had

to leave town due to my brother's illness, I was requested by the maintenance foreman to do welding in the rain on open steel and I refused to do so, because while sitting on wet steel, you can get a severe shock by holding this electric arc -- I mean the electrode handle in your hands while you were doing welding and I called the hall on this and I got the same reply, for me to tell the contractor or the boss to call the hall.

4-3 Q Did the delegate come down to the job and check that complaint out?

A No, he didn't, but they didn't request me to do any further welding under these conditions.

Q Are you interested in obtaining any other training in Local 14 or Local 15?

A I would be interested in training in 15.

Q What kind of training would you like?

A I would like further training on the bulldozer or maybe a backhoe or some of the other heavy equipment.

Q Why would you like that kind of training?

A I would like it for the simple reason that other operating engineers in this local had this training or some of them are still getting it.

Q Are you satisfied doing welding all the time?

A No. That's one of my reasons why I would like to

change.

Q Can you tell us why you don't want to continue doing welding all the time?

A Because I have a problem with my eye at times.

Q Have you ever tried to get any training from Local 15?

A No, I never tried because I learned that there is quite a list, a waiting list.

Q Who told you there was a waiting list?

A Some of the fellow engineers, operating engineers.

MR. GLASSMAN: I have no further questions of the witness.

MR. KENNEDY: I have no questions, your Honor.

CROSS-EXAMINATION

BY MR. BRADY:

Q Mr. White, when was it that you worked for the Ornamental Ironworkers and the other ironworker locals?

A It was in 1969.

Q Just for one year, was it, sir?

A I worked from 1969 until about July 1972, but not steady; a couple of periods that I went out of town.

Q Were you able to get work steadily from the ironworkers?

A Not steady, no.

Q Did you not learn in that experience that, in fact, construction work is not steady work?

A Yes. I knew that.

Q It was January of '73 when you first came to Local 15's day rooms?

A The first time I went there was in, I think, November of '72.

Q November of '72.

A Yes.

Q When were you first referred out of the hall?

A In January of 1973.

Q When you first went there, you said you didn't sign the list, isn't that so? You didn't put your name on the list?

A No.

Q But they advised you you could shape the hall at that time?

A Yes. Mr. Maguire told me that there was quite a number of book members who were out of work.

As I said before, he mentioned, too, that he didn't do business with Fight Back, but I was welcome to shape the hall if I wanted.

Q But you didn't chose to at that time?

A No, I didn't. I didn't go back until after the

following year -- I mean in '73, in January.

Q How long did you wait for a job when you went back the second time?

A I would say about a week.

Q Can you tell me how much money you made from referrals from the union in 1973, Mr. White, approximately?

A The whole year of 1973?

Q Yes.

A About $20,000.

Q At any time did the union ever affirm to you that there was an understanding with RTP that if a man who was referred under RTP worked for seven days, he then got his union book? Did anyone from the union ever confirm that?

A No.

Q When you finally got your book, when you did get your book, that was the Horne construction job, isn't that so?

A Yes.

Q Was that the longest job that you had since the time you were shaping the day rooms?

A Yes.

Q It is then when you got your book, isn't that so?

A Yes.

Q Do you know if there are other black welders in Local 15?

A Do I know of any?

Q Yes.

A Yes.

Q There is quite a few, aren't there?

A When you say quite a few, I don't know exactly -- you want me to refer to a number?

Q There is a number of them, aren't there?

A I can say what I have seen.

Q Of course.

A But I can't say, I don't know how many in terms of how many is quite a few.

Q Well, you see them on the jobs, do you not?

A The only welders I ever worked with is mostly black.

Q Since January 1974 to date, Mr. White, have you worked fairly steadily?

A Yes.

Q How much money have you made to date, approximately?

A I would say about, maybe about $13,000 or $14,000.

Q And you say you now have a desire to operate equipment?

A Yes.

Q But you have never told the union about that, have you?

A No, I didn't.

MR. BRADY: I have no further questions, your Honor.

THE COURT: You are excused.

Thank you, Mr. White.

(Witness excused.)

A R T H U R K E N N E D Y Y O R K, called as a witness by the plaintiff after having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GLASSMAN:

Q Mr. York, how old are you?

A 37.

Q For the record, what is your race?

A Negro; black.

Q Are you a member of an operating engineers local in New York?

A Yes, I am; Local 15.

Q How did you first receive your training on heavy equipment?

A Being a native of Trinidad, I was employed by the government down there.

Q Were you born in Trinidad?

A Yes, where I stayed for approximately about five

years and, in this program that they have down there, you go into the shop and you learn all the different skills like, you know, working under lathes, taking the equipment apart, putting it together and they will probably send you over to machines and so on, and, as you go along, you know, you graduate.

Q What kind of equipment did you learn how to operate in Trinidad?

A From the bulldozers and backhoes, loaders, scrapers, cranes, drive some tractor trailer.

Q What type of cranes did you operate?

A Northwest, American, P & H.

Q How large cranes were there in Trinidad that you operated?

A They were comparative to the equipment that they have up here. I would say like about 40 tons, I guess it would be.

Q About how long a boom would that be?

A About -- the boom varied from, say, about 80 feet maximum it was that I operated, about, I think it was about 120 feet.

T5

Q How long did you operate a crane?

A In the program they would have us graduate, like I saidpreviously,to the shop, that they would then determine whether you were equipped enough to go out as an oiler on the equipment whether it was a backhoe or an oiler assistant, operator on all this equipment.

Then you got training out inthe field with the operators, regular operators.

Q About how much time did it take you to operate the crane?

A Well, I would say approximately about six months. Really, I could have done it before, but that is what they felt.

Q Did you learn how to weld in Trinidad?

A Well, we did everything that was pertaining to equipment, heavy equipment.

Q About how many years total experience did you have in Trinidad?

A I worked on it, approximately I would say about five years.

Q When did you come to the United States?

A I think it was back in 1961.

Q Are you a citizen?

A Yes, I am.

Q When you came to the United States did you try to get into a union?

A At first, the first portion of 1961, I did not really. I was trying to get myself together, learning the country, I would say, or how to live in the City.

I had menial jobs, starting out as a busboy and so on. Then I got into driving where I got a tractor-trailer license and started driving for a couple of companies here and as I started driving, being they are all in the City, I saw the equipment.

Knowing that was my profession or field, I decided to inquire and investigate.

Q About how long were you operating a tractor-trailer?

A About a year and a half, I guess.

Q Thereafter did you call the union hall?

A Well, when I saw the equipment I went out and spoke to the operator on the equipment and they told me that it was pretty rough to get into the union. So I just continued driving a tractor-trailer.

Q When you say you saw operators, were these on the job site?

A Yes, they were in the City.

Q Did you talk to white men or black men?

A They were all white at the time.

Q How did you get your first job in construction in New York?

A Again, I was driving a tractor-trailer and I had a delivery out in Long Island and I met with a gentleman who was at the bar, stopping there for a beer and really to get a bite to eat, and in the conversation he was telling me that he was working in construction and that if I were really interested it might be possible, he would have me speak to one of the owners of the equipment.

I did this and I got a job with this company, Griffin Brothers or Griffin Construction Company out in Long Island.

Q Is that a black contractor?

A Yes, he is.

Q Do you know if he is a union contractor?

A It is one of those com si, com sa business, yes and no.

Q What do you mean by yes or no?

A Well, at the time I would have to say yes and no because of the fact I was working for him and I didn't have a book and I knew other people who did not.

Q Were all the other workers black?

A Yes, they were.

Q Do you know how much you got paid at the time?

A I think I was making a couple of hundred a week.

Q About two hundred?

A Yes.

Q Did you stay in New York City for work?

A Will you repeat that?

Q After you worked for Griffin did you stay in New York City to work?

A No, I did not.

Well, while working for Griffin I was doing, you know, various types of work like repairing all this equipment.

Q Will you speak up a little?

A Repairing his equipment, and I got a welding machine flash or burn from the flash of the electric welding which made me go to the hospital. I was temporarily blinded, I think approximately about a week, so I decided to just quit that because of the fact that my friend told me that we can go up-State New York and get some work.

Q Why did you go up-State to get work?

A Because I think, I knew I was going to make more money from our conversation.

Q At that time had you tried to get work with the union in New York?

A At that time, no, I did not.

Q How did you hear about work up-State?

A My friend told me about it, John.

Q Where was this job?

A I was working in Pottersville.

Q How did you find that job?

A Through my friend. We went up to the local in Albany, or, rather, he made a call to the local in Albany.

Q What local, was that, do you know?

A I don't remember. One something.

Q An operating engineers' local?

A Yes, it is.

Q Who did you work for in Pottersville?

A Lane Construction Company.

Q About how long did you work there?

A I think approximately six months.

Q What kind of work did you do?

A I was running a dozer, cutting slopes. He transferred me on to a scraper. Then I was running a roller. Then I ran one of those machines that we use for putting the rail on the side of the Northway.

Q You said you were running a roller? How big a roller did you operate up there?

A I think about 20 tons, I guess, approximately.

Q Did you take your family up-State with you?

A No, my family stayed in New York City at all times.

Q After your job with Lane Construction, who did you work for?

A I worked for S.J. Gross in Huntersville, New York, which is in the Catskill Region.

Q How did you get that job?

A The same local sent me right out on that.

Q The up-State Operating Engineers local?

A Yes, the local in Albany.

Q What kind of work was that?

A I started out on a dozer and he put me on to a scraper. I ran a roller up there again and then I was on a crane.

Q What kind of crane did you operate there?

A It was an American.

Q About how big a crane?

A I guess it was about 40 tons.

Q Was there any license required to operate the crane?

A No, not that I know of. Only in New York City you need all licenses you can have, I guess.

Q Have you since then become familiar with cranes in the City of New York?

A Yes, I have.

Q Were the cranes that you operated in up-State New York similar to the cranes in New York City?

A Yes.

Q Do you know if they were similar to the Local 15 or Local 14 equipment?

A Yes,they are.

Q Which local?

A Local 14.

Q Were the cranes that you operated in Trinidad also similar to the Local 14 equipment?

A Yes, sir.

Q How long did you actually work for S.J. Gross?

A I think it was approximately about two and a half years to three years, I guess it was.

Q When did you come back to New York City?

A I came back in the fall of 1968, I think it was.

Q Why did you come back?

A Well, it was really a big hassle travelling back and forth,with my family down here in New York City.

Q How did you try to find a job when you came

back?

A I then went to several of the operators again in the street who told me where the hall was and so on.

From my experience up-State Albany I felt that if Albany can send me out on a job I felt they could have done it down here, too, so I went into the hall.

Q Did you go to the hall?

A I called the hall and spoke to one of the delegates, I don't know which one of them I did, really. He told me that it was pretty bad. I think it was around Christmas, somewhere around November. He told me it was pretty bad but I can call him back.

So I called him back. This was approximately about two weeks later. I called him back and he told me to come down to the hall. I did go down to the hall and I think they did send me to a job for a couple of weeks.

Q When you came down to the hall did you go to Local 14 or 15?

A Local 15. Local 14 and 15 are in the same hall.

Q How did you know which local to go to?

A I really don't know which one. I went and told them what I can do and it would seem it was the Local 15 delegate who took the information from me.

Q Are there two locals in Albany?

A No, one.

Q About how long were you in the hall before you got your first job?

A I think it would be a couple of weeks.

Q What questions were you asked when you first went into the hall, do you remember?

A Just asked me what type of equipment I could run and so on.

Q What did you tell them?

A I gave them the whole rundown of all the equipment I can run.

Q That you could operate cranes as well as other heavy equipment?

A Yes.

Q Do you remember who you spoke to at that time?

A I think it was one of the Murphy brothers, if I am not mistaken.

Q Did he say anything to you?

A No, just told me to sit down, that is all.

Q About how long did your first job last?

A I think I was there about two weeks. This was at the end of the year really and I stayed on the job until the job closed, which was about two weeks.

Q About how long after that until you got your next job?

A It was back in February, 1969.

Q About how long until you got your second job after that?

A From November I stayed off until through Christmas and I got the next job in 1969.

Q Do you know about what month in 1969?

A I think it was about February, late February.

Q Who did you get a job with at that time?

A They sent me out on this job just starting up, Procter & Gamble in Staten Island with the company Raymond International.

Q Did you continue to work in New York City thereafter?

A Yes, I did.

Q About how long did you stay there?

A About eight months, I guess.

Q Did you leave New York City again?

A At the end of 1969 I left New York and we located into Miami where I went to start an airline of my own.

Q Why did you leave New York?

A Well, I just wanted to, you know, be progressive I would say, and I think at that time trying the airline

business would have been my best bet.

Q Do you know how to fly?

A Yes, I am a pilot.

Q When did you come back to New York City?

A I came back in October of 1973.

Q Had you had a book in the union before you left?

A Yes, I did.

Q Did you reactivate your book?

A Yes, when I came back.

Q How?

A I just went into the hall and I paid, I think the procedure is you pay three months' dues in advance.

Q Have you gone to the hall to get jobs since then?

A Yes, that is the procedure that we normally go through, go to the hall.

Q In the last year what kind of questions have you been asked when you signed up for work?

A Well, at first when I got back Mr. McGuire, Sr. had known me very well -- I say very well, he knew of my capabilities -- and he would just take my name. When I came back they normally asked the same question, what kind of equipment you can operate.

Q Have you ever been asked how long you have been

out of work?

A No.

Q What kind of jobs have you been getting in the last year?

A Well, since I came back I have been, the longest I had was about six weeks filling in for a guy on a cherry-picker who went on a vacation.

Q How much total work have you had in the last year?

A It is pretty hard to say it was so sporadic. Like I probably worked maybe after the six-week job, I think the latest was about two weeks and then I would be off three weeks, two weeks sometimes; it varies.

Q This job, the six-week job, who was that with?

A Perini Construction Company, 136th Street.

Q What kind of work were you doing on that job?

A I was operating a cherrypicker.

Q Did you ask to stay on that job when you were told you were laid off?

A I knew that they were moving machines back and forth and I was also living a few blocks away from the job, so I tried to see if I could procure a job permanently there. It was unfortunate I did not really.

I spoke to the foreman on several occasions when

I knew equipment was coming in and asked him for it and I was told I would have to play it through the hall, which is a real unusual circumstance because of the fact I have seen other guys who are on the job transferred without asking anybody in the hall. On the contrary, I was there and on various occasions with the master mechanic, he would call up, or the foreman rather, our foreman would call up and tell the hall that this is the man he is putting on the machine.

When I knew that these machines were coming in I was told he would give me one so I would be able to stay on the job for a while. Henever did.

Q Did you speak to the contractor about staying on the job?

A Well, it is not ethical, I was told, because I would actually be going against the union regulations.

Q Has everyone ever told you it would be unethical?

A Yes, one of the contractor's foreman told me this particular piece of equipment was coming and he would have liked me to get on to it. I went to our foreman and told him about it and he told me that it is true this equipment was going to be there a couple of weeks.

I then called the delegate that I did most of my conversing with, Mr. McGuire, Jr., and he told me that he

didn't know anything about it.

So I then went back to the foreman and tried to see if I can get some type of understanding with him. He never reacted in any way. The equipment did come and I think it is presently on the job.

Q You weren't allowed to continue working?

A No, I wasn't.

Q On that job, was that a government contract job?

A Yes, it is for the City.

Q About how many total engineers were on this job when you started?

A I would say approximately 25 or 30.

Q About how many blacks when you started on the job?

A Do you mean actual people who worked around the equipment?

Q Yes, operating engineers on that job when you started.

A Black I would say about, I think it was about between eight to ten.

Out of the eight or ten, however, it was only about four that were on equipment; the rest were welders.

Q Did the number of persons operating equipment increase at any time while you were out there?

A Yes. After approximately about, I think it was about two or three weeks, there was an influx of black operators, even on the loader, and I felt pretty good just to see black people kind ofprogressing.

A few days later I found out that a gentleman by the name of Mr. Billie Martin, I think it was from some place in the Mayor's office, was coming down to check on the job to find out how many minority workers were there and he cameon the job and he took my name and asked me various questions and so on about the job.

After he left, for about another week, everybody got laid off.

Q You mean the blacks got laid off?

A Right.

Q Did you ever work on a tunnel job?

A Yes, I did.

Q When was the last time you worked on a tunnel job?

A This was a while back, I would say approximately two and a half, three months.

Q What kind of work did you do on that job?

A Maintenance.

Q How long did that job last?

A It lasted about two weeks, I guess.

Q Was the job still continuing at that time?

A Yes.

Q Did you ask to stay on the job?

A No. I was holding it down for somebody either I think on vacation or something like that.

Q Did you ever go back to work at that Perini job site again?

A Yes, they had me back and forth, you know, holding on for everybody on vacation, a week here, maybe two weeks after that.

Q What kind of work did you do when you got sent back?

A I was on maintenance and the last job that I had there was oiling the crane.

Q How long did that oiling job last?

A While I was holding down the guy was supposed to be drunk and drying out and it lasted a week.

Q Did you ever work for Slattery Construction?

A Yes.

Q When did you work for them?

A I think it was about a month ago.

Q What kind of work did you do for them?

A I was sent to Slattery to run a backhoe. I got on the job and they showed me the equipment I was supposed

to use. I took the machine out and started working.

Q Will you speak up a little, please?

A I got on the job and they showed me the equipment I was supposed to run, which was a backhoe. I got on the actual site and started operating the equipment.

On this particular job, it is in the City and there is quite a lot of gas mains and electric wires running through the street, the portion that we had to dig.

While I was digging, you are digging so deep and working between all this equipment that you have to have a man standing up on top or, rather, I would say, ahead of you giving you signals, telling you when to go down and when to come up.

Obviously, I can only work as fast as the man telling me, so one of the foremen came out and said to me that I am too slow on the machine. I was actually producing or my pile of dirt was just as high as the other guy's, and he told me that I was working too slow, he needed production. He asked me if I can run a loader, so I told him yes, I can.

So the next day they brought this loader in. I got on the loader and I had to pick up, clean up the street, like a little pile here and some dirt there. The laborers would normally get a shovel and shovel the

stuff in and there is nothing for me to do but sit in the equipment until they pick up all the stuff.

The foreman came back and told me that I wasn't able to run the equipment and brought me my check and handed it to me.

I went to the union and told Mr. McGuire, Sr. exactly what happened -- what happened was that I got into a heated argument with the superintendent. I told him that he was just a bigoted person and the employers were bigoted and that I felt it was very unjust for me to be laid off.

Q Did you tell this to Mr. Maguire?

A Right. I told it to Mr. Maguire and I was hoping that MR. Maguire would react but, instead, he just sent somebody else out there.

Q Have you ever worked for Certified Industries?

A Yes, I did.

Q When did you work for them?

A I dont remember exactly. It was a few months ago.

Q About how long did you work for them?

A One week, again. Somebody was on vacation. The operator was on vacation.

Incidentally, while I was at Certified Industries, I was told by the foreman at Certified Industries and a few other people that I was a much better operator than the one that was there and they would have liked to see me on the job permanently.

MR. BRADY: I am having a great deal of difficulty hearing the witness. If you could please raise your voice.

THE COURT: Speak up, please.

Q And have you been spending time sitting in the union hall in the last year?

A Yes, I have.

Q In recent months, about how many men are in the hall on a Monday morning?

A It varies from, I would say, maybe 80 to 100.

Q Approximately howmany of those men are white and how many black?

A I would say approximately about maybe 20 would be black.

Q Have there been times when you have stayed in the hall to the end of the week?

A Recently, yes.

Q At the end of the week, about how many people are left in the hall, usually?

A Well, again it varies. Could be from 60 to 80, again, probably.

Q About how many black men are usually left in the hall at the end of the week?

A Maybe about 3 or 4 may go out.

Q And the rest stay?

A Yes.

Q Have you ever refused a job, Mr. York?

A No. At least, I go out and try, even though, you know, that --

Q Have you seen white men refuse jobs?

A Yes.

Q Any particular reason you haven't refused a job?

A Well, I would say because I didn't want the union

to feel that I am trying to become a you know, to be particular or picky and, besides that, I am a very versitile person. I can do almost anything that they send me out to do.

Q What is the longest you have ever sat in the hall yourself without getting a job?

A Approximately about three weeks.

6-2 Q Did you ever work for Tibbetts Company?

A Yes, I have.

Q When was that?

A Two weeks ago.

Q And how long did that job last?

A About a week.

Q Did you try to stay at the job longer?

A Yes. It's a new job and it's supposed to be, I was told, a two year job and I have been trying to stay on the job for the duration of the job.

Q Did you speak to anyone on the job about it?

A Yes, I did. I spoke to the foreman on there and I also have been trying to speak to Mr. Maguire, Jr.

Q Did you speak to Mr. Maguire about it?

A Yes, I have.

Q What did you say to him?

A Well, I was told by the foreman on the job over there, you know, that certain pieces of equipment was going

to come in and I would normally call ahead and get in touch with Mr. Maguire and tell him of what learned and he would say to me, probably, well, if I am not employed he would send me out on the job.

It so happened that on several occasions, I was not employed and they brought in new equipment and I never got it.

Q What did Mr. Maguire say to you?

A Well, the last time I was telling him cherry-picker that was supposed to be going on the job and he told me that he knew about it already and if I am not working he is going to give it to me.

I then went on this job for Crimmins and Kayuga to hold on for a guy for three days who was on vacation or something I guess.

In the meanwhile, the other cherrypicker was on the job, so I never got that cherrypicker.

Q On this Tibbettjob, you said you spoke to the foreman about trying to stay on?

A Yes.

Q What did you tell him and what did he tell you?

A Well, I was out of work for a long while and he kind of assured me that I can get the job permanently.

Q Are you working there permanently?

A No. I am laid off from there.

Q Have you ever seen a black delegate or union officer?

A No, I haven't. It would be a good thing if we were to have one so that we would have some type of understanding, I would say, between the black workers and our union delegates.

I think we really need somebody who can, you know, be like a mediator, I would say.

Q Have you ever suggested the idea of a black delegate to a union officer?

A Yes, I did, to Mr. Maguire, Sr., this one time.

Q What did you tell him?

A I just told him that I would like to be a delegate; that's all.

Q What did he say to you?

A Well, it was, like I said, like in a joke, jovial manner and we just laughed it off.

MR. GLASSMAN: I have no further questions of this witness.

THE COURT: We will take a short recess.

(Recess.)

MR. BRADY: I think Mr. Kennedy said he didn't have any questions, your Honor.

MR. KENNEDY: That's right; I have no questions.

CROSS-EXAMINATION

BY MR. BRADY:

Q Mr. York, when you first went down to the hall in 1968, at the end of '68, you said you got a job after a few weeks and then you came back to the hall and there were no other jobs until February of '69; at least no jobs that you got; is that so?

A Right.

Q What were the conditions in the hall during that period of time?

A At that time I was told that there was no work; most of the jobs were closed because of the winter. I think we had a severe winter that year.

Q Did you go down to the day rooms, during that period of time?

A Day rules?

Q Yes. The union day rooms.

A No, I did not. I just keep in contact with the hall at home.

Q And then, shortly thereafter, you went to Florida and reactivated your book in 1973?

A No. I went on a job in '69, February of '69, and I worked for about eight months on that particular job.

Q That is Proctor & Gamble?

A Right.

Q The job you testified about, the Perini North River job, you were on that job about six weeks, is that so?

A One portion of time, yes, I was on the job for six weeks.

6-3 Q You said you tried to procure a job or to run a machine at that job when you were being laid off and you spoke to a foreman.

Who was the foreman you spoke to?

A I don't know his name. I don't remember his name but he was working with the Steelworkers.

That's the foreman that, he laid the steel, you know, for the beams.

Q Was that an operating engineer?

A No, he was not.

Q Were you ever told by anyone in Local 15 that it would be wrong or unethical to speak directly to a contractor to obtain work?

A No. I was not told anything like that.

Q As a matter of fact, you obtained many of your jobs directly, do you not, sir?

A When you say directly, what do you mean?

Q By dealing directly with the contractor.

A No.

Q You don't?

A No.

Q Did you get the job with Tibbetts on your own?

A No, I did not. I was --

Q During the last year -- have you finished your answer?

A I was sitting in the hall for a period of time and I drive my brother to work every day and because of the job that he did for Tibbetts, the contractor asked him if he had any relatives who were operators.

He told him "yes" and the contractor in turn said that whenever he needed somebody else, he is going to call the hall and ask for me.

Q Did he do that?

A I would assume he did because I was told when I called the hall, by Mr. Maguire, Jr. that I should go on the Tibbetts job.

Q How long has your brother been working for Tibbetts?

A About two or three weeks, I guess.

Q When you drove him to the job, did you ever stop on the job and speak to anyone about work?

A About working?

Q Yes.

A No.

Q On the Perini job, you said that there came a time when they sent a number of black or, at least, a number of black engineers appeared on the job.

Do you recall that?

A Yes.

Q What were these men doing on the job?

A They had a couple of guys on a truck crane; one on a loader; and, they had several other trainees.

Q You said you saw a lot of blacks one time.

Was this the "lot of blacks" that appeared on the job?

A Well, it was a few more than that, really.

Q What were they doing?

A I think they had some in the shop, also.

Q How many appeared suddenly?

A I would say approximately about 5.

Q How long did they stay on the job?

A Maybe about 2 or 3 weeks, I guess.

Q Were they replaced by someone?

A Yes, I guess they did.

Q Do you know if they were replaced by anyone?

A Yes, I would say yes.

Q Who were they replaced by?

A By other white guys. I don't know the names.

Q What specific jobs were these people doing?

A I just mentioned that to you.

Q The ones who were replaced?

A Pardon me?

Q The people that were replaced, what job were they doing?

A They were doing the same type of work on the equipment, oilers, and so on, oilers on the loaders and so on.

Q Operating loaders?

A Yes. One guy was operating a loader, one of them was operating a loader.

Q How many black oilers were there on the Perini job?

A I think maybe about 3, I would say.

Q Do you know if they stayed on the job?

A No, they did not.

Q How long did you stay on the job after they left?

A I stayed about three weeks, I guess, after that.

Then I was laid off and then they sent me back there on the job again as an oiler.

Q And how long did you stay as an oiler?

A A week.

Q What happened to the job?

A Well, like I said, I was holding on for a guy who was, I was told that usually come on the job drunk and so on, and can never do his work and while working and so on, the operator even asked the maintenance foreman the master mechanic that I stay because I was doing the job pretty well. I never did.

Q When you were sent to the Slattery job operating a backhoe, you were told that you operated too slowly?

A Yes.

Q And who was it that told you that?

A The foreman on Slattery. Rather, yes, the foreman on Slattery.

Q Is he an operating engineer?

A No, he is not.

Q But he didn't lay you off; you stayed on the job operating a front end loader, was it?

A They told me that they were going to put me on a front end loader.

Q And you did go on it?

A I did, yes.

Q That last what, about a day?

A Yes, about a day.

Q The foreman that laid you off, was that the same

foreman that told you you were too slow?

A Yes.

Q Did you complain to the union about that?

A Of course I did.

Q Mr. Maguire sent someone else out?

A Yes, he did.

Q Do you know who he sent out?

A Yes.

Q Who is the person he sent out?

A The gentleman sitting right down there (pointing).

Q Who is that?

A The gentleman standing there, now (pointing).

Q Is he a black man?

A Yes, he is.

I think he suffered the same fate, incidentally.

Q Do you know?

A Of course.

Q Do you know?

A Yes.

Q Do you know what happened to him?

A Yes.

Q What happened to him?

A He was laid off, too. They told him that he was too slow, also.

Q Do you call the union for jobs or do you come in to the rooms for jobs?

A It depends. Sometimes, if I am low, financially, I make a call. If I can afford it, I go down to the hall.

You can't drive a car from all the way over in New Jersey, all the way to Long Island every day. I mean, you know, I couldn't afford that, not the way I was working.

Q How long have you lived in New Jersey?

A I lived in New Jersey -- well, just about ever since I came up from Florida.

Q In 1973?

A Right. Of which I spent, I think, about a month over in New York.

Then, I went back to Jersey, again.

Q On the average, how many times have you been into the hall in the last few months?

A I would say maybe five times, probably.

Q Has there ever been a time when you went to the hall every day of the week?

A Well, no, not really every day. I would say maybe about three times, three days in a week.

Q Isn't it a fact that, generally, you do telephone, rather than come in?

o Like I mentioned to you before.

Q Isn't that true?

A Not generally.

Q Isn't it true that more often you call than come in personally to the hall?

A I call and sometimes -- I call and I would still go in.

Q When you call, do you get jobs?

A On several occasions it happened, yes.

Q At the Tibbetts job, how many engineers are black on that job?

A Three.

Q And how many engineers are employed there? Do you know?

A Presently?

Q Yes.

A For the equipment, I would say it would be about, probably have about seven pieces of equipment. The operators are white and the oilers are black.

Q What is your brother doing on the job?

A He is operating a machine that I was running.

Q Is he white or black?

A He is black. He is the only one operating there.

Q I thought you said all the operators were white?

A I'm sorry.

Q You are sure there are no other operators there who are black?

A This probably would be something that happened very recently.

Q Why did you leave the Tibbetts job?

A Why did I leave the Tibbetts job?

Q Yes.

A I didn't leave the Tibbetts job. I was laid off.

I was sent there by Mr. Maguire, Jr., for -- he told me they needed the pay loader or rather the loader, 977, for a couple of days, of which I stayed on 7 days.

Q You stayed 7 days?

A Yes, sir.

Q What happened to the machine?

A The machine was laid off because, you know, on that particular job they didn't have anything more. It was just putting up the dirt for the trucks and the city came and knocked the trucks off.

Q And you know that that machine was in fact laid off, isn't that so?

A Yes, it was laid off.

Q No one replaced you?

A Yes. My brother replaced me, now.

Q And you said you asked the foreman at Tibbetts to

see if you could stay on the job; isn't that so?

A Yes.

Q Was that a Local 15 man?

A No, he is not.

Q Isn't it a fact that most of the operating engineers on that job were hired directly by the contractor?

A I wouldn't agree with you there all the way.

6-4 Q Do you know that some were?

A Yes.

Q Was your brother hired directly by the contractor?

A No.

Q You had a complaint about not getting a cherrypicker job.

Was the reason you didn't get that because you were working somewhere else?

A Which cherrypicker are you referring to?

Q Well, that was right after your testimony about Tibbetts.

You said that you had asked for the job and Mr. Maguire told you that he would assign you to a cherrypicker but you didn't get that job.

Do you recall testifying to that?

A Well, let me say it this way:

The cherrypicker that I was after was the one that

was supposed to be on the Tibbetts job. That is what he told me, that if I am not working, he is going to give me that cherrypicker.

Q When that cherrypicker job opened up, you were, in fact, working, isn't that so?

A Of course. I was working for three days.

Q But you were working.

A Right, on a temporary job.

Q How many jobs have you had, say, since June of this year?

A Quite a few. I can't recall the amount.

Q How long have you been out of work since June?

A Since June? I would say maybe about four months total.

Q Do you know how much money you made this year?

THE COURT: Out of work for four months, since June?

A No. You know --

THE COURT: Working.

A Right. Like I worked for a week and get laid off two weeks, and so on.

How much money I made during the year? No, I didn't keep a record of it.

Q Do you know about what you made this year?

A Like I said, I didn't keep a record of it.

MR. BRADY: I have no further questions.

MR. GLASSMAN: I have a few.

REDIRECT EXAMINATION

BY MR. GLASSMAN:

Q Do you know when your brother was hired on the Tibbetts job?

A I guess it would be about three weeks ago.

Q And has he been working there steadily since then?

A No, he has not, really. He was an oiler on a crane and the crane got laid off; they shut the crane down, like I said, because the city didn't pass the job and he got laid off too.

Q Is he working now?

A Yes. He has gone back to work now.

Q How long has he been working on the present job?

A How long he has been working on the present job?

Q Yes.

A I would say about three weeks, I guess.

Q You said when the equipment got laid off you got laid off on some jobs?

A Yes.

Q Is that usually the case, when the piece of equipment is laid off you get laid off?

A Well, is varies. Sometimes they normally transfer you on another piece of equipment. They have various systems in doing this.

The contractor can call the hall and says, you know, we want this guy on this piece of equipment and I guess the hall would clear it because, you know, they have senior guys just moving from one piece of equipment to another.

Q Do you know why the contractor calls the hall?

A Well, they figure you are doing pretty good on the job.

MR. GLASSMAN: I have no further questions.

RECROSS-EXAMINATION

BY MR. BRADY:

Q Mr. York, the cherrypicker job that you were concerned with at Tibbetts, do you know how that job was filled?

A No, I don't.

Q Do you know if the contractor hired that man directly, himself?

A Well, I will have to say, based on hearsay conversation -- when I say this, I mean I have been asking around on the job -- the other operators who were in Staten Island where this piece of equipment was coming from, I asked them if it was the same man and they told me no, it was not.

Q Do you know whether or not the union referred that man to the cherrypicker job or the contractor hired him directly?

A Well, let's say it like this:

The contractor can't hire nobody if the union don't want the person.

Q But, would you answer the question, Mr. York? Do you know whether the contractor hired this man for the cherrypicker directly or not?

A I really can't answer the question you are asking me, the way you are asking me.

Q But do you know?

A No, I don't.

MR. BRADY: No further questions.

THE COURT: Excused.

(Witness excused.)

T7

LESTER STEPHENSON, called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GLASSMAN:

Q Mr. Stephenson, where do you live?

A 134 East 55th Street, Brooklyn.

Q Are you married?

A Yes.

Q Do you have any children?

A Five.

Q How old are you?

A I am 39 years old.

Q For the record what is your race?

A Black.

Q Are you a member of a local union in New York?

A Local 15.

Q Where were you born?

A Jamaica, West Indies.

Q How did you first receive training on heavy equipment?

A In Jamaica, with the government.

Q How long did you work for the government in Jamaica?

A About three years.

Q What kind of work did you do for them?

A I worked as an oiler and a DA.

Q What is a DA, a dozer?

A Dozer, yes.

Q Did you learn to operate a dozer?

A Yes. Each equipment in Jamaica carries an oiler which assists the operator and you gather your training from the operator in the course of working as an oiler.

Q After the government what did you do in Jamaica?

A The Aluminum Company and the Bauxite Company, which is their mining aluminum ore.

Q How long did you work for them?

A I worked for five years for one and two years for the other.

Q What kind of work did you do for those companies?

A Operate heavy equipment.

Q What kind of equipment?

A Dozer, front-end loader, scraper, and grader, too.

Q Did you receive any training on cranes?

A Yes.

Q What kind of cranes?

A Dragline, P & H cranes.

Q About how large is that?

A It is 100 tons.

Q When did you come to the United States?

A I came here in 1969.

Q Are you a citizen at this time?

A No, I am a resident.

Q When you first came to the United States how did you seek work?

A I went to the State Employment Agency.

Q What did you tell them?

A I told them that I am a heavy equipment operator, and they said that I can't operate, get a job without going in the union, and they referred me to the union.

Q Which union was this?

A Local 15.

Q Did you go to Local 15?

A Yes, I went there and I was told that -- that was in September, 1969 -- I was told that things is slow and I would have to wait until things get fast, pick up.

Q Were you told to sit down in the hall?

A No. I went back to the State Employment Agency and got a job to operate a forklift in a warehouse.

Q When you went to the local were you told to sit down and wait in the hall?

A No, I was told to come backwhen things pick up.

Q Anything about getting a union book at that time?

A No.

Q You went back to State Employment?

A Yes. And then I got a job on a forklift.

Q Did you ever come back to the unionagain?

A Yes, I went there in November, 1969.

Q Who did you see at that time?

A Well, I was referred to the Manpower Employment Agency.

Q They referred you to the union?

A No, they referred -- they gave me a letter to the union and I was told that I could shape the hall then if I wanted to.

Q What kind of letter did they give you?

A Well, I didn't know what the contents of the letter was because it was sealed. But I told them that I understand that if I got a letter from them to the union I would be accepted in the union.

Q Do you know the name of this organization that you went to?

A I beg your pardon?

Q Do you know the name of the organization that

you went to?

A Manpower Employment Agency.

Q A black organization?

A Well, more or less they seek work for people who are out of work.

Q Did you give this letter to anyone in the union hall?

A Yes, I gave it to one of the delegates.

Q Who do you know his name?

A At that time I think his name was Mr. Garrity.

Q What did Mr.Garrity say to you?

A They said tha I could shape the hall, you know, and I started shaping the hall. But at that time I still do my night work and shape the hall from 7 until 11.

Q Did the union give you any test?

A No. I was there for ten weeks before I got sent out on a job.

Q What was the first job you were sent out on?

A I was sent out on a scraper, a Euclid scraper, for a construction company.

Q How long did that job last?

A Two months.

Q Did you get a union book on that job?

A No.

Q Did you ask anyone about getting a union book?

A No, not at that time.

Q Where did you work next?

A I went to Delmar and I worked for nine months with Delmar.

Q Where was Delmar?

A Huntspoint Fish Market.

Q What kind of work did you do there?

A I was running a dozer, front-end loader, periodically.

Q You said you worked there for nine months?

A Yes.

Q Did you get a book on that job?

A Yes, I called up once about it and they told me that the delegate -- I don't remember if he died now -- but he had retired and he told me that I would have to, he said that he would get in touch with me, and then Mr. Dan Murphy called me up about two months or so after that and told me that I could come in a certain date for my book.

Q About how long had you been on that job before you got the book?

A I had been on the job five or six months before.

Q When did that job end?

A I don't remember, but it is some time in 1971.

Q The beginning of 1971 or the end of 1971, do you remember?

A About the middle of 1971. I got laid off, the job didn't finish.

Q Do you know why you were laid off?

A Well, they had two dozers on the job and they had to lay off one and it was my one they laid off.

Q Was the operator of the other dozer a Local 15 man?

A Yes, he is.

Q Do you know if he was white or black?

A He is white. But he is a steady man with the company, been working all different jobs.

Q What other kinds of jobs did you get in 1971?

A After I was laid off with Delmar I was bouncing around from one place to the other, two weeks here, two days there, and then I eventually got a job in Staten Island.

Q Did you get a Staten Island job in 1971?

A Yes.

Q Who was that with?

A That was with Edenwald.

Q What kind of job was that?

A I was running a dozer.

Q How long did that job last?

A It lasted about six months.

Q What kind of jobs did you get in 1972?

A In 1972 I worked, I do several other jobs and then I start working with Tibbets Construction Company in Staten Island.

Q What kind of work did you do for Tibbets?

A I was running a front-end loader, backhoes and dozers, on and off.

Q Did you know how to run a backhoe before you got the job?

A Yes.

Q How many engineers were on that job?

A We had about six Local 15 and two or three Local 14 men.

Q Do you know how many black men were on this job?

A I was the only Local 15 black. I spent five months on that job and I was being laid off twice.

At one stage I was being laid off and I had to contact, I refused my check and I had to contact the --

Q Were you the only one laid off?

A Yes, of the five.

Q Did you contact the union about that?

A Well, I eventually contacted the Fight Back people first, because at the time I was laid off there was

no way of getting in touch with the delegate and then I went to the Fight Back people, which is a black organization, and early in the morning, 8 o'clock, we all went there, about eight of us went there, and I was being reinstated and they employed three blacks, one carpenter and two laborers after that.

Q Did you ever work for Slattery?

A Yes, I worked for Horn before, after I left Staten Island, I worked for Horn.

Q What kind of work did you do for Horn?

A Operate front-end loaders, backhoes and dozers.

Q How many black operators were on that job?

A I was the only black operator, but you have maintenance, which is Local 15 and oilers, about two.

Q Were you laid off on that job?

A Well, I was laid off and I objected to being laid off because you had a white man, a permit man, and I was told by the local union that a book man had been recognized before a permit man. So I wanted to bump the permit man and I refused my check. I called the delegate up.

Q Which delegate?

A Johnny Murphy. And he said that he didn't know about any permit man on that job. But eventually he came

there -- no, I also reported to Mr. Smallwood, who was the Environmental Protection Agency for that.

Q A contract compliance office?

A Yes, he takes up my case.

The delegate came on the job and I was being reemployed for a week and within that week the permit man has got his book and I was being laid off immediately after the man got his book, so I had no case against him, bumping the man any more, because he became a member.

Q After that did you work for Slattery?

A Yes. I worked for Slattery. I worked for Slattery for four weeks. I was being sent there by Mr. Danny Murphy while Mr. McGuire was on vacation.

I worked for the first week on a backhoe, half a day, and a front-end loader the rest of the afternoon. I then got a few hours overtime within that period. I complained about overtime.

Q Were there other people on the job getting overtime?

A Yes, you had five operators.

Q How many were white and how many black?

A I was the only black operator. At that time the first week I got overtime. The second week when we take me off the front-end loader and had me on a backhoe

steady now, and since that I haven't been getting any overtime.

Q Were the other people still getting overtime?

A Yes, every afternoon they get overtime.

Q Did you complain to anyone in the union you weren't getting overtime?

A Yes, I complained to my, to the supervisor, and he said that he is running the job and you are not going to tell me what to do.

So eventually I had an argument with him and I said I am only asking for my share because the Mayor said so, and he said let the Mayor come and run the job. I am not going to tell him what to do.

So I eventually called the delegate up -- the delegate came back off vacation and I was down there one day. I didn't complain to the delegate about it. He came down there and the maintenance foreman complained to him about it and he says to me, "What happened?"

So I tell him that everything is all right because I was reluctant to report to the delegate more or less. More so when I report to the delegate I never get justice, so I was reluctant. I did tell him what happened, and he says that have I been to the union hall recently.

I told him no, and I asked him why. He says,

"They have seven pages of men out of work," and I should be happy I am working instead of complaining about overtime.

Q You just said that you never get justice from the union delegates. Can you give me some specific examples?

A When I was laid off on the job and report to them they say the custom is like I feel within myself I am not justified because I am only -- each occasion I am the only minority operator and I have been laid off, so I feel that having four or five men on and I was laid off, the other guys are white, and I was the only one laid off and they should have laid off someone else.

Some other time I was told that the union rule is that when the machine goes, the man goes, and I have no claim on the machine.

If they do run the machine within 40 hours, working hours, I can claim it but if not, I have no claim on it.

Q Who did you complain to, which union delegate?

A I complained to several when I worked on different jobs. But at this job, on this job here, in Slattery, I complained to Mr. McGuire about it and I was being laid off that job -- no, I complained about the over-

time. Since I complained about the overtime I have been -- the super has been harassing me and I complained to the delegate about it.

At one stage he went as far as telling me, twice he told me, when I am telling him about the man, he says if I didn't want to do his work, I am not satisfied with whatever he says to me, I must come for my check. I refused, I didn't go.

He sent me another time to do work and I did the work and I refused a half-hour overtime because there was two hours on the job that I was doing and he takes me off that two hours' overtime and give me a half-hour and brings another machine to do the two hours' work. So I refused the half-hour overtime.

He says if I didn't hear what he said, I must come for my check.

Q Did the union delegate do anything for you about that?

A Well, I called him up that day and he come down. He asked me what happened and I told him and he says to the supervisor that he is not going to allow him to harass any of his men and he is not going to allow any of his men to harass the supervisor either.

And the supervisor tells me if I don't go he will

quit the job and the delegate in turn tells him, "No, I doubt if you will do that."

But about within a week and a half after I was being laid off on the results of complaining. That is on the Slattery job.

Q When you are sitting in the hall are you told how long a job is going to last?

A Sometimes. Not all the time.

Q Have you ever refused a job?

A Yes.

Q What kind of jobs have you refused?

A Tunnel work.

Q Any other kinds of jobs you particularly refused?

A No.

Q Did you ever refuse a long job or a short job?

A No, never.

Q What happens when you refuse a job?

A Well, they ask you why, the reason why you didn't want the job, so I tell I don't like tunnel work because I hate to work underneath the ground, and they say at least, one of the delegates told me I am being fair instead of going on the job and leaving after, he preferred to know that I refused the job before so he can send somebody else.

Q When you refused a job how quickly have you

gotten referred to another job?

A Sometimes a day, sometimes two weeks.

Q Are you interested in receiving any particular training from the union?

A No. Just I wanted my cherrypicker license and I applied to put my name on the training list ever since the school started for backhoes and cherrypickers. But eventually I picked up on the job site, learned to operate the backhoe on the job site.

Q You said you applied for the training school?

A Yes.

Q How long ago did you first apply?

A In 1972 that was.

Q How did you apply for the school?

A Put my name on the list just to get my license for the cherrypicker.

Q Did you ever get into the school?

A No.

Q Have you inquired recently about getting into the school?

A Yes. I asked Mr. Murphy about the cherrypicker license, Mr. Dan Murphy, and he said that there is no chance of getting into school now because he got a long list.

Q How long ago did you last talk to him?

A That was about fice months ago.

Q Mr. Stephenson, have you attended membership meetings of Local 15?

A Yes, I do.

Q Have you ever heard this case discussed in a membership meeting?

A Well, when the questionnaire came out.

Q What questionnaire are you talking about?

A From the Department of Justice, some paper, stating how long you are in the union and things like that.

On one occasion in the meeting it was said that if you don't want to fill out those forms you can avoid it and you shouldn't fill it out before you consult the union attorney.

MR. GLASSMAN: I have no further questions of this witness.

MR. KENNEDY: Local 14 has no questions.

MR. BRADY: May I have a moment? This witness's name was not on the list.

THE COURT: We will take a short recess. I am going to adjourn in about 20 minutes, but we will take a short recess.

(Recess.)

CROSS EXAMINATION

BY MR. BRADY:

Q Mr. Stephenson, was it on the Edenwald job -- excuse me -- the Tibbets job were you working five and a half months?

A Yes.

Q You were laid off?

A Yes.

Q Was your machine laid off at that time?

A My machine was laid off, yes.

Q Were other people laid off with you at that time?

A No.

Q Laborers laid off?

A No.

Q That is the time you went to Fight Back, isn't that so?

A Right.

Q Why didn't you call the business agent?

A At that time when I was laid off, you know, from 11 o'clock the union hall is vacated, nobody to get in touch with.

Q Did you call the union at all?

A Yes, I did, the morning.

Q The morning you were laid off?

A The evening I was laid off I refused the check, I went to Fight Back that evening. Then the morning when I went back to the job with Fight Back,I called the delegate, which is Frank Guma.

Q Was that after you had already been put back on the job?

A No.

Q What did Mr. Guma say to you?

A He says the same thing to me. If I know that 10b equipment is being laid off, I automatically go too.

I says, "Well, I am the only black operator and I feel that I shouldn't be laid off, because there is five of us."

Q Was any other equipment laid off?

A No. I told you before.

And I told Mr. Guma that he is my representative and things -- and these he is not supposed to state in front of the contractor because we can always use technicality and get --

Q Was Mr. Guma on the job when he told you that?

A Yes. He went right -- the contractor, the supervisor was right there.

Q So he came out to the job when you complained?

A Yes, and I said to him that if he don't represent me, I have another source of getting represented.

Q At that time the Fight Back people were with you on the job?

A Yes, and they reinstated -- no, he came, he came

after the Fight Back people left; he came then.

Q Who was it that laid you off from the Tibbetts job?

A That was the supervisor.

Q Was he a member of local 15?

A No. We have no maintenance foreman on that job at that time. You have a maintenance man but he is not a foreman.

Q You worked on the Horne job and you said that you were laid off there, too?

A Right.

Q Now you say or claim a permanent man was not laid off; is that so.

A Right.

Q Was that man on the job there before you got there or after you got there?

A One year.

Q Do you know if he was hired by the employer, directly?

A I think he was because the delegate didn't know about him.

Q Who ever told you that a book man could bump a permit man?

A Well, it was been said in the meeting and it was

being said in the hall that whenever you are on the job or you check a job out and you see a permit man is there, you report it to the delegate and they will have them replaced, if you are out of work.

Q Did you say a permit man or did they say a non union man?

A A permit man.

Q And that the delegate would him replaced?

A Yes. Whenever, like a lot of men is out of work and a permit man is on the job, you can --

Q Well, when you were first working for Delmar you didn't have a book, did you?

A No.

Q You worked for eight months, didn't you?

A Yes.

Q Did anyone bump you?

A Yes, they tried it several times.

Q Did anyone successfully bump you from your job?

A No, not on Delmar job.

Q Then you had another two month job?

A Before I had a two month job. That's when I was on permit.

Q Did anyone bump you from that job?

A No. But I know of several men being bumped.

Q In the Slattery job you said that Mr. Maguire came to the job. Was it Mr. Maguire or a business representative?

A Yes.

Q And you didn't complain to him at first, isn't that so?

A No. At first I complained to the maintenance foreman. Mr. Maguire was on vacation.

Q And when Mr. Maguire came to the job, did you complain to him?

A I was a bit reluctant, but the foreman did complain. I was working then and he came right there and asked me what happened and I told him about the overtime.

Q You had a problem with the supervisor on the Slattery job, did you not, sir?

A Yes, I did.

Q And you had an argument with him?

A Yes.

Q And did you make any threats to that supervisor?

A I guess I did.

Q What did you tell him?

A Well, at one stage he had, before the Mayor thing, I was upset, too, because he asked me about a check, telling me to come for my check.

So, I told him, like I say, I am just asking for

my share, and he says to me that if I don't want to hear what he have to say, I must come and get my check.

This morning, the morning I was doing a job, he told the laborer that worked with me to come and get me because I finished that job.

The fuel man came to put fuel in the machine and I pull up beside the fuel truck and told him that I didn't have enough fuel to last me for the day.

So, the supervisor came by and I told him the same story, that the fuel man said I should pull up and he will fill me up.

He said to go ahead, to leave the fuel alone and I was to go to the machine.

So, I started to explain to him what happened, that I didn't have enough fuel to last me for the day so, he says, if I don't want to go I must come for my check, and I told him that ever since I complained about the overtime he has been harassing me and he must stop harassing me because I don't take nothing from nobody. And if he keep harassing me, I'll hit him. And he said that he don't care.

Q Is that supervisor a member of Local 15?

A No, and ordinarily a supervisor don't give instructions to an operator.

Q What is the supervisor's job out there?

A Well, he gave the instruction to the foreman and the foreman gives it to the laborer and the laborer then in turn tells me what to do.

Q Isn't the supervisor in charge of how the job is run?

A Yes, butthey never directly go to the operator.

Q Didn't Mr. Maguire come out and speak on your behalf?

A Mr. Maguire speak on my behalf, yes.

Q Weren't you threatened to be fired at that time and didn't he save the job at that time?

A I was being threatened by the supervisor if Mr. Maguire don't find another job give me, he is going to resign.

Q But he didn't resign, did he?

A No, but I eventually laid off within two weeks.

Q What happened to your machine? Was the machine laid off, then?

A The machine was laid off.

Q How about the laborers who were working with you; weren't they laid off, too?

A Yes, they was, but there was five of us operators and I was the only operator.

Q How long were they on the job?

A They have been there since the job started.

Q Aren't they steady Slattery men?

A Not all. Two. And, there was two backhoes on that job and which I operated one and a white guy operated one and that there is four of us -- five operators and they have two on the same machine and mine was the only machine that is being laid off.

Q But that was Slattery who laid it off?

A Yes. Well, I was told by the supervisor -- I went to the representative for the -- the black representative for the Transit, which is named with Mr. Gabriel.

Mr. Gabriel called up the supervisor and the supervisor says that he has nothing to do with me being laid off.

He handed down -- he told the maintenance foreman what phase of work what he is going to do for that period and things like that and it's the foreman who decided who is supposed to be laid off.

Q But, in fact, the laborers that were working with you were also laid off?

A Well, that's what I understand; I didn't know about that.

Q Well, will you tell us, please, how much did you earn in 1971?

A 1971? I earned something like $18,000.

Q Beg pardon?

A $18,000.

Q In 1972, how much did you earn?

A '72, I earned $18,000.

'71 I earned $16,000.

Q In '73, how much did you earn?

A I think it was $22,000.

Q And how much have you earned to date in 1974?

A I don't have any idea of it.

Q You have no idea?

A No, I don't check it until when I send in my return; that's the way I know.

MR. BRADY: No further questions.

REDIRECT EXAMINATION

BY MR. GLASSMAN:

Q You said you once threatened to hit someone on the job.

Did you ever hit anybody?

A No, I did not.

MR. GLASSMAN: No further questions.

THE COURT: You are excused.

(Witness excused.)

THE COURT: Adjourned until 2 o'clock.

(Adjourned.)

rpl

AFTERNOON SESSION

2.00 P.M.

MR. DEVORKIN: The plaintiff calls Herbert Screen.

HERBERT SCREEN, III, called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DEVORKIN:

Q How old are you?

A 21.

Q Just for the record, what is your race?

A Black.

Q How far have you gone inschool?

A I graduated from Franklin K. Lane, located in Brooklyn, and I had one year of college.

Q When did you graduate from Franklin Lane?

A 1972.

Q Where do you now live?

A Brooklyn, the East New York section.

Q Are you testifying under subpoena today?

A Yes.

Q Before you graduated from high school, did you ever make any efforts to seek work or learn about operating

engineers' trade in New York?

A Yes, I did.

Q Will you tell us what you did?

A During my senior year of high school I was planning to go on to college but that I wanted the career of operating engineers, the trade.

Q How did you do that?

A I stumbled on it through some books I was reading because at the time I was thinking about becoming a Civil Engineer.

Q Did you ever make any further efforts to learn more about operating engineers?

A Yes, I did, but the literature was very limited for operating engineers.

Q Will you tell us what you did?

A Well, since I didn't have nobody in the union myself and I knew very little about the trade, I contacted my guidance counsellor.

Q At Franklin Lane?

A Yes, Mr. Shapiro.

Q What did he do or you do?

A Well, he suggested that I sit down and write some letters to the International, the Department of Labor, State, and also sit down and try to contact some of these

locals within the City.

Q Did you write any of these letters?

A Yes, I wrote a letter to the International.

Q Did you receive any response from the International?

A Yes, I received a letter and a booklet.

Q Do you remember what you said in your letter to the International?

A I told them that I was interested in taking up the trade of operating engineer; that I read up some data on the trade itself, and I feel I am fully qualified to take up this trade.

I explained the number of years of education I had and the little bit of mechanical ability I did obtain. In reply they said"I am glad to hear this"--

Q Let me ask you, Mr. Screen, were you seeking work as a full-fledged worker or as an apprentice at this time?

A I was seeking work as an apprentice because I really wanted to get in the trade. I really wanted to learn what the trade consists of.

Q I show you what has been marked as Plaintiff's Exhibit 76 for identification and ask you if you recognize that?

A This is the letter I received from the International of the Operating Engineers in 1972.

Q I show you what has been marked as Plaintiff's Exhibit 77 for identification and ask you if you recognize that?

A This is the booklet that came with this letter. I received this in 1972.

MR. DEVORKIN: I offer Plaintiff's Exhibits 76 and 77. I don't have a copy of 77.

MR. BRADY: I haven't seen 77.

THE COURT: 76 is received in evidence.

xx (Plaintiff's Exhibit 76 for identification received in evidence.)

MR. DEVORKIN: I show the original of 77 to counsel.

MR. BRADY: No objection.

xx (Plaintiff's Exhibit 77 for identification received in evidence.)

Q Mr. Screen, I believe you mentioned that you or your guidance counsellor said something about calling the local unions in New York City. Did you or he ever do that?

A Yes. We were directed to do it by the New York State Department, so we got the Yellow Pages and looked

up under all the operating engineers and we sat down and were calling every number we could find.

Q Where were you when you made those calls?

A I was in Mr. Shapiro's office at Franklin K. Lane during my senior year in high school.

Q That was 1971 or 1972?

A That was in 1971, the winter of 1971.

Q Do you remember if you or he called Local 14 or Local 15?

A He called Local 14, Local 15, he called the Welfare Fund, he called every number under the Operating Engineers.

Q What if any response did you get?

A In the beginning they were just telling us you have to call this number, you have to call that number, you have to call this number, and they said -- first they said that they had no program and then they said they do have a program.

Then they said you have to wait on a list and there is no program at all. Then he finally came out that the program is one day a week.

So Mr. Shapiro confronted him about the one-day-a week program.

Q Let me ask you, Mr. Screen, at that time when

the one-day-a-week program was mentioned, did you already have a copy of this book?

A Yes, and Mr. Shapiro confronted him how is it possible --

MR. BRADY: Excuse me, your Honor. We have no indication from the witness what union he was talking to. There are nine Operating Engineers locals and numbers in New York City and now we have a confrontation of some kind. We don't know who he is talking to.

THE COURT: Who were you dealing with?

THE WITNESS: We were dealing with Local 15 at the time.

THE COURT: Local 15.

Q Had you received this booklet already from the International?

A Yes.

Q Referring to Plaintiff's Exhibit 77 in evidence?

A Yes.

Q Was this book or anything in it discussed with Local 15 by Mr. Shapiro that you know of?

A Excuse me?

Q Did Mr. Shapiro discuss what was in this book?

A Yes. He told the person, whoever he was talking to over the phone, how was it possible to have a program for one day a week when the federal government has a program for at least five days, certain amount of hours and procedures and so forth; how was it possible.

So, they said they have a training program but not an apprenticeship program.

Q After those phone calls, did you ever go down to either Local 14 or 15's offices in New York City?

A Yes. My first time going down was in the winter of '71. I was instructed to go down by the letter. The letter said I have to get in contact with the local unions.

Q You are referring now to the letter from the International, which is Plaintiff's Exhibit 76 in evidence?

A Yes.

Q Did you go down?

A Yes, with the letter and the booklet.

Q Whom did you speak to down there?

A I spoke with Daniel Murphy.

Q What did you say to him and what did he say to you?

A Well, I told Daniel Murphy I was interested in joining the apprenticeship program for operating engineers and that I wanted to learn the trade.

He told me in return that I will have to get in contact with Eddie Johnson, he handles all those affairs, apprenticeship affairs, training affairs.

Q Did he tell you who Mr. Eddie Johnson was?

A He told me he was in charge of some New York plan and he gave me his telephone number.

Q Did Mr. Murphy say anything to you about the union school at that time?

A Not at that time.

Q Did he say anything to you about the union training program?

A Not at that time.

Q Did he say anything to you about getting work through the union?

A Not at that time.

Q Did you ever get in touch with Mr. Eddie Johnson?

A No. I called him constantly and every attempt I made was a failure; just couldn't get in contact with the guy at all.

Q After you had no luck with Mr. Johnson, did you ever talk to anybody else about trying to get into the

Operating Engineers Trade?

A Yes. I talked to some contractors and went back to my counselor and talked with him.

Finally, I got hooked up with this program called Joint Apprenticeship, which now is called RTP, and it was trying to get me into the union.

2-2

Q Do you know what they did, if anything?

A First of all, they told me it was a very hard union to get into and tried to ask me if I wanted to go into any other trade. I told them no, I wanted to go into the Engineers.

So, they made an attempt to try to get me into Jersey and that failed.

They made an attempt to try to get me into 137. I went to 137. I filled out the applications. I passed a physical, I took their tests and I went right up to the interview, passed the interview and still couldn't get in.

Q Did RTP send you to anybody else at the time?

A After all that failed, they asked me again if I wanted to go into another trade. I told them no. That is when they got me in touch with Mr. John McHughes the U. S. Attorney.

Q Did RTP ever give you any documents or letters of reference or anything like that?

A While I was with Mr. McHughes, he was reviewing the case a couple of years ago, RTP sent me this letter telling me to report to the union hall for work and, on the letter, explained they had Mr. McHughes' name -- he was the federal judge, I mean district attorney -- and had all the names of 14 members, and all the names of 15 members, the delegates, and told me if I failed to report there that I wouldn't be able to get a job.

So, that is what I did. I reported there with the letter. They also told me to write down the names of the people I spoke with.

Q I show you a copy of what is marked as Plaintiff's Exhibit 78 for identification and ask you if you recognize that.

A This is the letter RTP sent to me.

Q Would you examine all of the documents attached to that.

Were all of the documents sent to you at the same time?

A They was all sent to me in the same envelope.

MR.DEVORKIN: I offer Plaintiff's Exhibit 78 for identification into evidence, your Honor.

MR. KENNEDY: Your Honor, I don't know from whom some of these documents came.

THE COURT: They all came together.

MR. KENNEDY: I understand that but it would appear that --

THE COURT: They all came from the Joint Apprenticeship Program.

MR. DEVORKIN: The last page is a copy of the envelope in which they were contained.

MR. KENNEDY: The first page appears to be something that was prepared by the government and I was wondering for what purpose the first two pages were offered.

THE COURT: I don't believe that any of these were prepared by the government.

MR. DEVORKIN: No, they were not, your Honor.

MR. KENNEDY: That was one of the questions.

THE COURT: They were prepared after consultation with the government, I would say, but not by the government.

They were prepared -- at least one document is prepared by Ulysses M. Jordan and it comes out from the Joint Apprenticeship Program.

I will receive it in evidence.

xxx (Plaintiff's Exhibit 78 received in evidence.)

Q After you received these documents from RTP, Mr. Screen, and were told to go down to the union, did you in fact go down to the union?

A Yes, I did.

Q That was Local 15?

A Yes.

Q Do you remember when that was, the second visit?

A That was, I believe, in the spring of '73.

Q '73 or '72?

A '72, I believe, excuse me.

Q Who did you speak to when you got down there?

A I spoke to Daniel Murphy that day. I also spoke to John Murphy, too.

Q What did you say to Messrs. Daniel and John Murphy, and what did they say to you?

A Well, I came down there with the first letter, with the booklet and the second letter, telling me to report to work. So, I showed them the letter, I told them that, I said, "Look, we have a federal suit against you," and I showed them their names on the list and they all was inside the office on 14th Street.

They looked at the letter, they saw their names and stuff, you know.

Then, John Murphy, he said, "Well, you have to be 21 years of age, anyway," and then I turned around and I told John Murphy, I said, "You don't have to be 21 because, according to this booklet, the federal government says you

have to be 18 years of age and have a high --"

Q Was this the booklet, Plaintiff's Exhibit 77, that you showed them?

A Yes. And, you know, that's all the information I knew about the operating engineers, according to that booklet.

So, he didn't say anything else.

Then, Maguire, senior,asked me to come over to the head of the table. He said, "Come here."

So, I went over there and he asked me to sit down; I sat down.

He said, "I am familiar with the government program but I have my own training school, we have our own training place, and he said that he didn't believe in the federal government program; he didn't believe in all that book theory; he just believed in practical theory and that he just wants men that can work and he asked me did I have any type of experience or did I do any work in the field.

I said I was part time working with L. B. Griffin and he said, "Yes, we know L. B. Griffin, yes, we know him but we have our own school," and he said "We have blacks in our school, also," and he said a lot of themdon't even have the education, background education that I have, you know, and he said, "I would like to see you working with us, too,"

but he said, "But you got to get in contact with Eddie Johnson."

He said, "Look, I am going to call Eddie Johnson for you."

So, he asked one of the delegates to call Eddie Johnson. Eddie Johnson wasn't in his office; this was on a Friday afternoon.

He said, "Eddie Johnson would be in Monday."

He said, "Here, take this number and you got to get in touch with him; call him up Monday and he'll fix you up; he is our boy."

That's what he said.

2-3

Q Did you ever again try to contact Mr. Johnson?

A Yes, I did.

Q Did you have any luck at that time?

A I got in contact with him finally over the phone. He sent me to someone else called Sam Mason, one of his field representatives. He asked me to fill out an application and I am still waiting for that.

Q Did you ever go back to the hall again?

A Well, by that time I was, had graduated from high school. I didn't sign up for no type of college. I had no type of job or nothing, you know, and I was getting harassed by my parents and stuff, you know, you graduated from high

school -- I just had no type of intentions, because I'm still waiting to get into this union, being hassled by my folks and stuff, saying that "You'll never get in," and people around,you know, just hitting you from all angles.

Q Did you go down to the hall again?

A Yes. I got a call from Mr. McHughes because things were running very slow as far as the case is concerned.

I asked him was anything going on and he said nope. He said, "Why don't you go down to the hall just to see what happens."

This was in August.

Q Did you do that?

A Yes, I did.

Q Who did you speak to this time at the hall?

A I spoke with Daniel Murphy again.

Q What did you say to him and what did he say to you?

A Well, I explained to him, I said, "Look, you know, I was trying to get in touch with this Eddie Johnson and this guy seems to be giving me the run around, you know; so, what is happening? I came down here a couple of times before and you keep telling me again 'talk to this Eddie Johnson'".

So, he turns around and he says, "I can't help it if Eddie Johnson is shitting you."

And, then, you know, I got sort of upset. I said, "What do you mean, he's shitting me," and, you know, I sort of fired back, had a little argument and then I said, "Look, you have your training school; you told me you have a school, right," and he said, yes and I said, "Well, put me in that, put me into something; I just want to get some type of training so I can get into this trade."

So, I said, where is the school located, and he said on Leffert's Boulevard and Belt Parkway.

I said, "Where?"

He said, "In Queens."

I said, "So, write it down for me."

He wrote it down. He showed me on the map where it was located and he asked me to be there Saturday morning at 9 o'clock.

T3

Q Did you go out there that Saturday?

A Yes. I was there that Saturday morning, 9 o'clock.

Q Did you fill out an application out there?

A Yes, I went out there Saturday morning, Danny Murphy was there. One of the instructors took me out to a machine and once I got back into the office he asked the instructor what are my capabilities, what am I capable of doing.

He said I can't do a day's work, he needs training, and from that point on I was admitted to the school.

Q Are you still in the school?

A Yes.

Q Have you been going there every Saturday?

A Yes.

Q While you have been at school have you had occasion to see the school operated by Local 14?

A Yes.

Q Have you ever had any occasion to talk with any of the men in the Local 14 school?

A Occasionally.

Q From your conversations have you ever been able to determine whether they are members of Local 14 or any

other union?

MR. KENNEDY: Objection, leading.

THE COURT: I will permit it.

A From what they told me is they are on permit until they pass their written test by the City, then they have to be recommended to get a book. A couple of guys have told me that, but no more than that.

Q After you got into the Local 15 school did there ever come a time when you actually got work in the Operating Engineers trade?

A Three weeks after I joined the school, about the end of September, 1972, I went to the Joint Apprenticeship to get a job due to the New York Plan. I was told at the school once I am capable of doing a day's work they will find me a job, I can go down to the hall.

Q Did the Joint Apprenticeship get you a job?

A Yes, they got me a job through the New York Plan at Bowling Green and the contractor's name was Cayuga Crimmins.

Q What kind of job was that?

A Maintenance engineer helper.

Q Were you a full journeyman or a trainee?

A I was a trainee.

Q Still in the New York Plan?

A Yes.

Q What was your rate of pay as a trainee?

A In 1972 my rate was $5 an hour.

Q Do you know what the journeymen you were working with were making?

A About $8.50, 30 cents.

Q Local 15 journeymen?

A Yes.

Q How long did you keep that job?

A About seven months. I went to school after that, went back to college.

Q Did you continue to go to the Local 15 training school on Saturdays?

A Yes, every Saturday. Before I left the job I called Danny Murphy and told him that I was going to school. He said it was okay and asked me would I be going to school every Saturday and I told him, yes, I would continue to go, because I was going to college within the City.

He said, "When you get out of school you can come down to the local and I will get you a job."

Q Do you mean in the summertime?

A Yes.

Q Did you go down to the local in the summertime?

A Yes, I did.

Q What kind of job did you get at that time?

A He started me off on a couple of permit jobs.

Q What do you mean by permit jobs?

A Jobs on which I would be able, paid union scale. At the time I think it was $8.80, something like that.

Q Did you ever get any other kind of job?

A Yes. I worked a couple of permit jobs and I worked a couple of welders'helpers' jobs and that was about it, trainee, jobs like that.

Q Did you ever have a job as a trainee during that summer?

A Well, I had a job as a helper. A helper usually gets paid about, at that time it was $6.60 an hour.

Q Did you ever ask anybody to get paid the full rate when you were sent out as a helper?

A Yes. I was working on a job in Staten Island for Mortran. I was on well points. I was sent out on the job as a trainee.

So I got to the job --

Q Let me try to understand something, Mr. Screen. You were sent as a trainee. Were you still in the New York Plan at this time?

A No, I had been told that once I leave the Plan I am terminated, I can't get back in.

Q Were you ever terminated?

A Yes. Once you leave they told me I was terminated.

Q You sent to this job as a trainee. What happened?

A I went to Staten Island to work on well points and I met up with another guy that was out to the school, we were working together.

He told me he was on permit, you know, working side by side doing the same work, going to the same school, but I am getting paid, you know, four or five dollars less an hour, which comes out to $150 a week.

Q Did you ever do anything about that?

A I asked the foreman. I said, "You know, we are both going to the same school and everything and both doing the same duties." I said, "Any chance I can get on permit? Can I change my status?"

He told me, "The delegate sent you out as a trainee and that is what you have to work at."

So I called up Frank and asked him about it.

Q Who?

A Guma, one of the delegates.

Q What did you say to him?

A I asked him, you know, I explained the situation

about the other worker. He told me, "You know, you just stay as a trainee for a while and when things get a little better, then I will probably change you over to a permit, but they were asking for a trainee there."

I said, "Fine, no problems. I just went on about the work.

Q Did anything else ever happen on that job with respect to your being a trainee?

A Well, he called me up about two or three days later on the job.

Q Who is "he"?

A Frank Guma. Told me I had to go to the City to fill out some papers to get into the New York Plan.

So I explained to him over the phone I had been terminated, that they wouldn't let me in. He said, "Don't worry about a thing, everything is all set, go down there and fill out the papers."

I said, "Okay."

So I went down and they were checking up on some records and said, "You were once in the Plan?"

I said, "Yes."

They said, "Well, what are you doing as a trainee? You are supposed to be a permit."

I said, "I have been sent down by my delegate to fill out some application and papers."

He said, "You can't be signed up, you are supposed to be paid the permit rate, you were terminated when you left the Plan, you can't get back in."

Q Do you know why you were terminated? Was that when you went to school?

A Yes. They told me I was terminated and couldn't get in, so I called back the hall but Frank Guma was on vacation at that time.

So I spoke with Daniel Murphy and I explained the situation to him. So Danny told me, "Look, they either pay you the permit rate or give you your money. You tell them I said so."

I said, "Okay."

So I went back and told them and the foreman must have called Danny or something and he said to call Danny up.

I called Danny up and Danny says, "Herb, they are going to let you go, but you come down to the hall tomorrow and I will get you a permit job."

I said, "Okay."

So the next day I came down to the hall and he got me a permit job.

Q Have there been other occasions when you worked as a trainee and other men worked side by side with you

doing the same work as permit men?

A Yes. I have worked on some jobs, you know, where a guy could have been a book man and he might have called the son in or something and then the guy, he didn't know anything about the trade, so I showed him.

He had been working with me and I showed him the duties and so forth and we both worked side by side doing the same work but I am being paid a trainee's scale and he is being paid permit.

Q Did you ever actually know whether this individual was the son of a union member?

A Yes. He told me, like, the maintenance foreman would be his father or could be like one of the guys that work with his father. We converse, work together. We talk about this.

Q Was he white or black?

A Most of them were white.

Q This particular instance where this son came on the job, was he white or black?

A He was white.

Q Had that ever happened on any other occasion?

A It happened on the last job I had.

Q Were you a trainee again?

A Yes, I was a trainee again.

Q What was the son working next to you?

A He was the supervisor's son, of the job.

Q A permit man or a book man, if you know?

A He was a permit man.

Q Was he white or black?

A He was white.

Q Do you know what pay scale he was getting?

A About $10.80, 88 cents.

Q What were you getting?

A I was getting $6.05.

Q That is the hourly rate?

A Hourly rate, plus stamps.

Q While you have been at this school, have you ever seen any of the white persons at the school take a formal practical test?

A Everybody comes in to the school has to take a test.

Q In the beginning when they come in?

A They have to be tested to determine their ability.

A And after they have been given training have you ever seen any white person in the school receive a formal graduation test, if you will?

A A couple.

Q Two?

A A couple I have seen.

Q Have there been other whites at the school besides those two?

A Yes.

Q Are those whites still there?

A Some are; some already have graduated.

Q Have you ever worked with any of those whites who graduated out on the job site?

A Yes, I have worked with them.

Q Do you know whether they were members of the union when you worked with them?

A Yes. Some of them told me they are still on permit, some told me they have their books already.

Q People that you saw at the school?

A Yes.

Q Did you ever see any of those who said they had their books take a formal graduation test at the school?

A No, I have never seen them.

Q How regularly have you been going to school?

A I have been going every Saturday. If I don't, I call up the hall and let Danny Murphy or Frank Guma know that I am not coming in.

If I can't get in touch with the hall I call

Phil in the morning at the school to let him know that I can't come in.

Q Have there ever been any persons who work on jobs with you as permit men who ha en't had any experience in the trade?

A It depends on the jobs. Like if we work a well point job and I am working there and say another permit man or book man comes along on well points and has never worked well points before, naturally I just show him what has to be done and we work together.

Q Have you ever gotten a chance to put the skills that you learned at the union training school to use on a job?

A Yes, I did, but not very rarely because I have to sort of, you know, show the guy that I want to do it but every chance I get, if I can show him a chance, you can get a machine or something, I can. But in order to get on the machine you got to have the permission from the maintenance foreman and the supervisor, in other words, to get on the machine.

Q How often would you say you have operated machinery on the job site?

A Not too often. I think usually they have some other duties for me to do.

Q Have you ever heard any delegates discuss the question of who works first, a book man or a non-book man?

A Well, we have been told at the school that book men have first preference to jobs.

Q Who told you that?

A The delegates that are at the school.

Q Have you ever gone to the hall to look for work?

A Yes.

Q When you have been down there what percentage of the shapers would you say are black?

A About 20, 25 per cent.

Q Is that at the beginning of the week or the end of the week?

A About the beginning, toward the middle. Toward the end everybody seems to drop off, you know. They don't come down regularly. It depends how regularly the guys shape up at the hall.

Q Who is left at the end of the week, Mr. Screen?

A Well, you always have more whites to begin with that shape the hall, so it is always going to be more whites to end with. But usually the population of the blacks sort of remain, some go out, some work a few days, some come back.

Usually the blacks will stay down, at least more

of them stay down all waiting until they get a job. They report every day, come on down and see if they can find some work.

Q Have you ever turned down a job?

A No.

Q Have you ever complained about the difficulties you have had getting work or the treatment you may have had as a trainee?

A A couple of times, you know, I might have complained, but not too rarely because the guys on the job they said, "Don't worry about it, don't make waves."

So a lot of this, I have just sat back and take a lot of insults, especially when you are on as trainee. But if you are a permit man it is more like having a little bit of respect, a little more weight.

But as a trainee they know you are a trainee and feel as though they are not too obligated to show you so much.

Q Who are the men on the job that have told you not to make waves, which men are you talking about?

A Guys I work with, the crew, I work with black and white. Both said, "Don't make no waves, don't make no problems." A lot of instances may come up where I may be insulted or especially when I am an apprentice, the

apprentice program, you may run into a lot of hassles and you have no weight or no voice, so there is no use really confronting with them.

Q Are these operating engineers that tell you that?

A Yes.

MR. DEVORKIN: I have nothing further, your Honor.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Screen, have you ever made an application at all to anybody to get into the Local 14 school?

A To get into Local 14?

Q Yes.

A No, I never have.

Q During the time that you have been attending school at JFK have you ever talked to Mr. Jack Stanton?

A No, I don't know who Mr. Jack Stanton is.

Q Talk with Mr. Preston?

A I don't know who Mr. Preston is.

Q Have you ever talked with any of the instructors out at the Local 14 school?

A No, I haven't.

Q Have you ever talked with anybody in charge of the Local 14 school?

A No, I haven't.

Q You mentioned that you had conversations with some of the people attending the 14 school. Do you know their names?

A No.

Q Do you know how many occasions you have had conversations with these people?

A Not very rarely, like if we was in school and I was on a piece of equipment and the equipment was near the 14 school, like if you were on a dozer and you are usually grading up a lot of dirt near the 14 school, so you would be next to the pupils and we just meet, get into a little conversation or something, and may talk of a lot of things.

Q White or blacks?

A White and blacks.

Q And black?

A Yes.

Q To your knowledge how many blacks have you seen at the Local 14 school out there?

A Very few; not that many.

Q How many people are out at the school, the 14 school?

A How many people out there?

Q Yes.

A Do you mean how many people come down to the school?

Q Yes.

A About 30 or 40 guys I guess come out to the school.

Q All at one time?

A Yes, every Saturday.

Q During the course of the entire Saturday or all at one time?

A This Saturday, all day Saturday, like eight-hour job.

Q Some 30 or 40 people are out there doing the eight-hour period?

A Yes, just like our school, 15, the same amount of people.

Q These people who are attending the 14 school tell you they were book men?

A The ones I had spoken to told me they were not book men.

Q How many in number would that be, sir?

A The ones I had spoke to?

Q Yes.

A About two.

Q Did they tell you they had obtained their license?

A They told me they haven't obtained their license.

Q But you don't recall their names?

A I don't recall their names.

MR. KENNEDY: I have no further questions.

BY MR. BRADY:

Q Mr. Screen, when you went to the union, Local 15, the first time, you were advised to contact Mr. Johnson. Did they tell you who Mr. Johnson was?

A They told me that Mr. Johnson handled the apprenticeship program. He didn't describe what the program is. He didn't explain to me they handled minorities. He said see Eddie Johnson, so I went in to see Eddie Johnson, and I didn't know whether he was white or black.

Q Did you find out who he was at a later date?

A Yes, later on I found out what type of program it was and who was Eddie Johnson, but I never really could get in contact with him.

Q What program was he connected with?

A The New York Plan.

Q So the first time he came down to the union they told you to contact Eddie Johnson but you weren't able to do so?

A Right.

Q Did you ever write to Mr. Johnson?

A Several times.

Q He never answered you?

A Never answered.

Q When was it that you did get into the New York Plan?

A I got into the New York Plan -- talking about starting to work with the New York Plan?

Q Yes.

A It was three weeks after I got into the Kennedy Airport School. I went down.

Q Was that in 1972?

A That was in 1972, September of 1972.

Q Was that right after you graduated from high school?

A Yes. I graduated in June of 1972.

Q In the New York plant, you were assigned to some employment, were you not?

A Yes, I was.

Q For whom were you working?

A I was working for Kayuga -- Crimmins, the job location was on Bowling Green, Second Avenue subway.

Q How long did you work there?

A About seven months.

Q Seven months?

A Yes.

Q What type of training did you receive?

A My classification was maintenance engineer. I received some training in welding, burning.

Whenever I got a chance, get on equipment; they wasn't too anxious to teach me, though, but I was very persistent.

Q Have you finished your answer?

A Yes, I am finished.

Q Who wasn't very eager to teach you to operate?

A The guys I was working with, you know. It was maybe one or two out of maybe the whole bunch, six or seven or eight of them was willing to show me a couple of things, you know.

Q Did you get an opportunity to get on equipment at

sometime?

A At sometime, yes.

Q You then left voluntarily, is that correct?

A Yes.

Q At any other time did you get any work out of the New York plan?

A Yes.

Q You left voluntarily to go to college?

A Right.

Q Did you attend college?

A Yes.

Q For how long a period of time?

A I attended college -- what year are you talking about?

Q When did you start college?

A February of '72; no. '73.

Q Did you go days?

A I went during the day.

Q How long did you go to college?

A I went to college for about a year, up until last November.

Q November of '73?

A Yes.

Q So, the whole year of '73, you were in college,

actually?

A Right.

Q And you were still attending the school, local 15?

A Yes.

Q Have you ever worked for Castagna?

A Yes.

Q Was that under the New York plan?

A Yes. I worked for them in November.

Q What year?

A November of '73.

I called Danny up because I had to leave school and I said I needed some work, so Danny said, you know, "Things are kind of tight but the only thing I have available is a trainee job."

Q In other words, he got you back into the New York plan, isn't that so?

A Yes.

Q Isn't that so, sir?

A That's right.

Q Even though the general rule was that if you were terminated from the plan, you weren't supposed to be able to get back in; isn't that so?

A Yes.

Q What happened on the Castagna job? How long

did that job last?

A I was on Castagna for about 9 and a half months.

Q What happened? How did you leave that job?

A I was laid off. I was working on the pumps.

Q What happened?

A Let me see -- he came to me one day --

Q Who?

A My maintenance foreman. Handed me my check and told me I was laid off.

Q Do you know why?

A He said that I wasn't doing my work. He said I wasn't performing my duties correctly, you know, so I told him I was and he -- at that time they was going through changes of maintenance foremen.

Q Was there any trouble with --

MR. DEVORKIN: Objection your Honor. The witness hasn't finished.

A At that time, they was going through changes of maintenance foremens. There was this guy named Tony Polito, I believe, and me and him -- I guess I can say he was about the closest guy I had been in confidence with, somebody, you know, who gave me a chance on the job.

Q Chance to do what?

A Chance to learn, chance to learn.

Q This is under the New York plan?

A Yes.

Q What kind of chances were you getting to learn at that job under the New York plan.

A He was giving me a chance to put me on the machines, giving me a chance to learn about the business and he also promised me, you know, if I continued he would put me on permit and maybe even recommend me for my book.

Q How much time did you get on the machines with Mr. Polito?

A Any chance, any time he needed something, he knew I could do the job, he put me on it.

Q What kind of machines?

A Dozers, rubber tired loader, loader, backhoe.

Q That was good training, was it not?

A That was beautiful training.

Q Was there any problem? Something happened to a pump on the job?

A Yes.

Q What happened to the pump?

A Tony had left the job and left Bob in charge.

Q Bob who?

A My maintenance foreman. I don't know the last name. Yes. Buchanan.

And I was watching the pump and I had the pump tied down, so I had to go and run back to the shop to get something because like, they had me running constantly, so, when I got back, you know, Bob was there and said, "Why you left the pump," and I said, "I had to go to the shop, I had to get some tools."

4-2

Q Who told you to go to the shop.

A I had to get some tools and wrenches and stuff in case I had to change the oil and go back and get some more gas. That's my duty as a pump man.

Q What happened to the pump?

A Well, the pump was, like, tilted on the side because of the vibration. It was tied. I tied it down, so it was tilted on the side.

It hadn't fallen but, then, he was screaming about the pump was going to fall, youknow, so I didn't argue with him, you know.

So, I didn't argue with him and I said, "You know, I had it tied down, I had to go get some gas and stuff," and he said, "You shouldn't leave the pump, you know."

Q Did there come a time when they were looking for you on the job and said they couldn't find you?

A How can they find me if I went to go get some gas and oil, you know?

I only do what they tell me to do. What more --

Q Had you ever complained --

MR. DEVORKIN: I object. The witness had not finished the answer. He has interrupted him.

THE COURT: He finished the answer. He was going into something else.

Let's go ahead.

Q Did they ever complain to you on that job about sleeping on the job?

A They, they complained, accused me of sleeping, but I wasn't sleeping.

Q Did they ever have a photograph of you sleeping on the job?

A Photograph of me sleeping on the job? No.

Q I beg pardon?

A No.

Q At any rate, you were let go from that job, were you not?

A Yes, sir, I was.

Q You were discharged?

A Yes, sir, I was.

Q So, one New York plan training job you left yourself and the second one you were discharged from.

Now, did you --

A I was laid off; I wasn't discharged.

Q You weren't discharged?

A I was laid off.

Q You weren't fired from Castagna?

A I wasn't fired. I was laid off.

Q Why were you laid off?

A Because that's what he told me. He said, "I am laying you off."

Q Did he give you a reason?

A No.

Q I thought you said before that they weren't satisfied with your work and that was the reason.

A He didn't tell me no reason. He just said, "I am laying you off, giving you your money."

I didn't argue with him then, I went down to the hall.

Q Wait a minute. Okay.

Mr. Screen, are you saying you didn't testify about ten minutes ago that they told you they weren't satisfied with your work?

A Yes, I did.

Q And wasn't that --

A This is my opinion, you understand. This is my opinion.

Q Isn't that the reason they gave you, sir?

A No. That wasn't the reason they gave me when they gave me my check. No.

Q You are assuming thatthey weren't satisfied with your work?

A Right.

Q What happened, now, when you get down to the hall?

A Went down to the hall, Danny asked me why I was laid off. I told him I don't know.

So, he said, "I am going to investigate it."

I said, "Okay."

Q Did he investigate it, to your knowledge?

A Yes, he did, and he let me know that they said that I was sleeping and they said that I wasn't performing my duties.

So, I told him that they was lying and I also told him that, "Look, Danny, you know the situation."

He had been running into several conflicts with the whole crew, himself, the men in the shop, men on the machines, you know. He was sort of shaking things up.

So, it was just a matter of time for him to come pick on me, too.

Q At any rate, how long had you worked for Castagna?

A I worked for Castagna about 9 and a half months.

Q When did you start the job?

A In November of '73, the end of November of '73.

Q When were you laid off from the Castagna job?

A I was laid off in the end of August, I believe.

Q Of this year?

A Yes.

Q And you are still going to the school, isn't that so?

A Yes.

Q Have you worked since August?

A No, I haven't worked since.

Q When did you have these well point jobs?

A I had these well points when I was -- the summer of '73. I had these well point jobs then.

Q That was before you went to work for Castagna?

A I had the well point jobs during that summer. Then I went to school.

Q In other words, you had the well point jobs while you were a college student?

A Right.

Q You were a trainee, you say?

A I also had some training, helper jobs, during the summer, too.

I have one helper job out in Bayside. I was sent

out, I was sent out by Johnny Murphy. I worked in --

Q During the summer while you were a college student, how much money did you make?

A While I was a college student? What year?

Q During the summer. You were only a college student for one year, as I understand it.

A Right. Last summer I made maybe about $3500, maybe $3,000; $3500, right around there.

Q Did you return to school?

A Yes, I did.

Q Then you went to school until about November?

A Yes.

Q Then you got back into the New York plan?

A Right.

Q Now you are talking about being on the job, a well point job, and receiving the helper's pay?

A Right.

Q How many men are in the well point team?

A It's really hard to say because, at that time, Mortrain construction in Staten Island was the biggest one in the world --

Q I just mean your team.

A My particular team, about 5 men.

Q Isn't it true that every team is made up of a

foreman and four journeymen?

A A foreman and four journeymen?

Q Four journeymen and a foreman.

A But that's including a foreman, the four guys.

Q How many were on your team?

A Four, including the foreman.

Q Four including the foreman?

A Right.

Q How many times were you sent out on the well point?

A About two or three times.

Q You said you were working on a job and had been working on a number of jobs when members of sons came on the job; doyou recall that.

A Yes.

Q What jobs were you working on when that occurred?

A Wards Island, the one I just left.

Q The one you just left?

A Yes.

Q Who was the member and who was the son?

A A guy named Frank, big heavy set guy.

Q Do you know his last name?

A No, I don't. And his son's name was Joey. Joey we used to call him.

Saw him down at the hall, too.

Q Does he shape in the hall?

A Last time I been down to the hal' he was there, yes. He was out of work, also.

Q And he is trying to get work from the union, isn't he?

A I assume so, yes.

Q And he was sent to that job through the union?

A I don't know if he was sent there through the union or not.

Q Who else do you know that has a son coming out to the job?

A It was Rockaway Beach and I was working with --

Q When was this, by the way?

A This was the summer of '73.

I was working with my maintenance foreman and his son came on the job.

Q What was his name?

A I think his name was John.

Q Don't you know the last names?

A Guma, Gomer, something like that.

Q Guma?

A Goma, Guma -- I can't pronounce it. The name of the job was Fontaine.

Q Was this son working out of the union also?

A I wouldn't know. All I know is that he called his son down, you know, we were working together and one day he said, "My son is going to come down."

The son came down and he said, "I want you to show him a few little things," and, you know, I showed him the things.

4-3

Q Do you know how long his son had been working in the trade?

A He told me he wasn't working in there, not long at all.

Q Do you know for how long? A year or two?

A No. It wasn't that long.

Q Did he tell you how long?

A Maybe about six months or so, something like that.

Q Did he say that?

A Yes, he said that to me.

Q About six months?

A About six months, something like that.

Q Did he say he had other jobs from the union.

A He said about maybe one, two, not that much, you know.

Q What rate of pay was he getting, you say?

A He was getting, at that time I think it was 8.80 an hour.

Q What were you receiving then?

A I was receiving, on that job, permit. On the other job I was receiving --

Q What were you receiving?

A Same pay.

Q 8.80?

A Yes.

Q When you first went out to school, were you told you had to be there every Saturday?

A Yes.

Q Were you told that if you missed a certain number of days, you could be terminated from the school?

A Right.

Q How many days was that? How many absences?

A It was more than five.

Q What was more than five?

A Absences.

Q I mean, were you told you were allowed five absences?

A Yes.

Q How many absences have you had, Mr. Screen?

A I don't know, but everytime I was absent, I always called in for an excuse.

Q Substantially more than five?

A Yes; it was more than five.

Q Substantially more?

A No, not substantially more.

Q How many more?

A I couldn't say.

Q Have you ever been tested at the school?

A Yes.

Q How many times were you tested?

A I have been down to the school for two years, one month, and this week will be one week, and I have been tested in June.

Q Did you fail that test?

A Yes, I did.

Q For the two years you have been there, have you seen other blacks, come, learn,successfully pass the test and graduate?

A Yes.

Q And how many?

A Quite a few.

Q Exhibit 78, the letters you received, did you get this from Joint Apprenticeship?

A Yes. They sent it to me in '72.

Q In '72 were you experienced in heavy equipment operation?

A I had very little, none at all, experience in heavy equipment.

Q Isn't this addressed to all men with heavy equipment experience?

A Yes.

Q Did you ask anybody about that when you got this?

A Did I ask anybody about it?

Q Yes. Did you tell them you didn't have any experience?

A I told them I had very little experience. I told Maguire, Senior, that day when I brought it down.

Q Did you tell the Joint Apprenticeship that you had very little?

A Of course I told them. I also told them I was working part time with L. B. Griffin.

Q When were you working part time with L. B. Griffin?

A I was working part time for L. B. Griffin during '72, when I was still in my senior year in high school.

I worked on the weekends, a little bit after school.

Q How many weekends did you work with L. B. Griffin?

A About four months, I figure.

Q Four months?

A Yes, because I just knew L. B. Griffin, you know.

I just met him.

Q Were you on the payroll at L. B. Griffin?

A About three or four weeks he put me on the payroll.

Q What were you doing?

A He had me mostly in the shop. He took me out in the field.

Q Did you operate any equipment?

A He was teaching me a little bit, you know, but mainly he didn't have too much time. You know, most of the jobs were productions he couldn't show me, you know, but so much.

He didn't have too much time to spend on me so I spent a lot of time in the shop.

Q What was really your job there?

A In the shop? As a mechanical helper.

Q You helped mechanics?

A Yes, helped mechanics.

MR. BRADY: No further questions.

REDIRECT EXAMINATION

BY MR. DEVORKIN:

Q When the union advised you that you were allowed five absences from the school, did they say whether those were excused absences or unexcused absences?

A They said five unexcused absences.

The only reason you can't, you can miss a day of school is work. That's the only legitimate reason.

MR. DEVORKIN: Nothing further.

THE COURT: You are excused.

(Witness excused.)

THE COURT: We will take a short recess.

(Recess.)

MR. DEVORKIN: The plaintiff calls Mr. Pratt.

C L E M O N C. P R A T T, called as a witness on behalf of the plaintiff, after having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DEVORKIN:

Q Mr. Pratt, how old are you?

A I am 43.

Q Do you have a family?

A Yes, I do.

Q What does your family consist of?

A I have a wife and four children.

Q Are you a member of any operating engineers union?

A I am a member of Local 15A.

Q When did you become a member.

A I believe it was approximately October of 1972.

Q When did you first obtain training or experience

as an operating engineer.

A My first introduction to the engineer field was in 1948, after I joined the United States Army, and finished basic training.

Q When did you join the army?

A I joined the army in July of '48.

Q How old were you then?

A 17 and a half.

Q Did you enlist or were you drafted?

A I enlisted.

Q You said that after you received basic training you received some training as an operating engineer.

Where did that take place?

A My training in the engineering field was in Fort Belvoir, Virginia.

Q What kind of training did you receive?

A I received specific training as a grader operator, additional training in the operation of dozer, scraper, turner pull.

Q How long did your initial training last?

A My initial training lasted three months.

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Q What did you do on a daily basis for those three months?

A The course began with introduction to the maintenance and care of heavy equipment, specifically the grader and dozer.

It dealt with requisitions, ordering spare parts for the daily maintenance of the equipment.

Q Did you receive similar training on each piece of equipment?

A Yes. The maintenance aspect is more or less similar for the majority of pieces of equipment. Maybe the manufacturer's or the order number of a part might be different but the application is generally the same.

Q Did you get training actually operating the equipment?

A Well, once we have completed the maintenance and the logistics aspect of the training, we went into the practical applications and fundamentals of the operation.

Q What did this training actually consist of?

A In dealing with the grader, specifically dealt with the principal and practical applications of building and constructing a road, air fields, bridges, things of that nature.

Q During this initial three-month period how

frequently did you get to operate machinery?

A After the initial week which dealt mostly with maintenance, just every week we had a minimum of approximately four hours a day in the operation of the equipment.

Q Did you as an individual get to operate four hours a day?

A Yes.

Q Can you tell us exactly which pieces of equipment you operated during that three-month period?

A The exact pieces was the caterpillar 12 grader, the D-7 and D-6 dozer, the Michigan front loader, the barber green ditch digger, scraper, cable-operated scraper which was towed behind the dozer, and rollers.

Q Did you ever have an opportunity to operate a crane?

A I had the opportunity to familiarize myself with the operation of the crane but it wasn't on a sufficient enough basis to become skilled at it.

Q What kinds of cranes did the Army have in those days?

A Crawler and truck-mounted cranes.

Q Did there come a time when you graduated from this initial training?

A Yes, in December of 1948.

Q Where were you assigned next?

A I was assigned in Guam in the Pacific, the island Guam, 93rd Engineers.

Q That was the name of your unit?

A Yes.

Q What did you do while you were in Guam?

A Operated a grader, dozer.

Q Now long did you remain in Guam?

A Remained in Guam until June of 1949, at which time our whole unit was shipped to Okinawa after a typhoon to rebuild the island.

Q When you say rebuild the island, what do you mean?

A I meant that we had to clear areas, rebuild airfields, build extension roads, clear tracks for housing complexes.

Q What kind of work did you perform at that time?

A I was equipment operator, grader operating and a dozer.

Q Did you ever have occasion to learn additional machinery on the job, so to speak, on the military job?

A On the ob, yes. We had a practice of cross-training everyone in any equipment being used in the particular job.

Q Will you keep your voice up just a little bit,

Mr. Pratt, if you will? What do you mean by cross-training a man?

A Well, you had an MOS, which indicated that you were an operator of a certain type of equipment. But the other types of equipment, such as a crane or rollers, things of that nature, you had to cross-train on it because you had to be able to operate just about any piece that the unit had in case you are having to be employed on another piece of equipment.

Q How long would it take you to cross-train a man on a second piece of machinery, an additional piece of machinery?

A It is hard to say. It depends a lot on the individual and also the availability of the time.

Normally the operator was needed on the piece that he was assigned to but if you did have an opportunity to go, it would take anywhere from -- it is hard to put a figure on it because, like I said, it is the difference in the amount of time you have available plus the man's own ability had a lot to do with it.

Q After Okinawa where were you assigned?

A I was sent back to the States to Fort Campbell, Kentucky, and assigned to the 27th Engineers, Combat Engineers.

Q Were you still performing as an equipment operator at that time?

A Yes, I was.

Q Did you ever get sent overseas again?

A Yes. After I was assigned to Fort Campbell, Kentucky, I had an opportunity -- I had been promoted in the process of training. The Korean War broke out and I was sent into Korea.

Q What did you do in Korea?

A I was sent into the Second Division mainly as a combat troop but I was eventually sent into a combat engineer's unit after hostilities were not as great as they were at the beginning.

Q In the combat engineers' unit what did you do?

A In the combat engineering unit it is mainly working with the Infantry, building bridges, roads, airfields, escape routes, things of that nature.

Q What were your specific duties in that combat engineering unit?

A My specific duties, to begin with, was as an operator. We were building approaches and escape routes to the forward area where the enemy was engaging the troops.

Q Did you remain an operator the entiretime?

A There came a time when I was taken out of my role as an operator solely and placed in charge of construction of the installations that I mentioned.

Q What were your duties as a person in charge of construction?

A I had to coordinate the dispatching of pieces of equipment, determine what equipment was necessary, set up the refueling, servicing program, in order to make sure the equipment was maintained properly.

Q Talking about heavy construction equipment?

A Yes, we are.

Q Like the kinds you described before?

A Yes.

Q Did there ever come a time when you had an opportunity to take further training in the Army?

A Yes. After I left Korea I came back to Fort Campbell, back into the 27th Engineers, and I was sent to school at Fort Belvoir, Virginia, for another three-month period in which I was trained as a supervisor of heavy equipment.

Q What were you trained to do in that school?

A I was trained more or less to act as a construction supervisor, determining what type of machines are used for certain types of jobs; the establishing of the

work schedule, the equipment schedule, maintenance, both daily and monthly maintenance schedules and controlling the men that operated the equipment.

Q Have you ever been given any leadership training at the school?

A Yes. Leadership training as far as implementation of the equipment was part of the course.

Q Did you graduate from that school?

A Yes, I did.

Q Did you enlist in that school or were you selected?

A I was selected.

Q Do you know on what basis men were selected?

A On their potential leadership capabilities, determined by their immediate superiors as to whether they were qualified to hold a position or the handling of the implementation of the equipment.

Q Was there both black and white soldiers in the school?

A In the school, yes.

Q Just for the record, Mr. Pratt, what is your race?

A My race?

Q Yes.

A Black.

Q After you finished that school, what were you assigned to next?

A After I finished that school, I was sent to Europe and assigned to the 406 Engineer Battalion.

Q What kind of work did you do there?

A I was heavy equipment supervisor.

Q What kind of work did you supervise?

A The operation, maintenance and scheduling of heavy equipment into jobs that were being done by the battalion at that time.

Q What kind of jobs was the battalion doing?

A Building roads, building several airfields, constructing dykes and bypasses, bridges.

Q How long did you remain in Europe?

A For approximately three years.

Q Did you ever have occasion to take any further training from the Army?

A I went to the NCO Academy while I was in Germany.

Q What is that?

A That is the Non-Commissioned Officers Training School to enhance your traits, leadership traits, duties of an engineer; leadership and things of that nature.

Q Did you enlist for that or were you selected for that school?

A This was more or less I was selected but it was more or less a requirement for engineers, NCO's,if they planned on getting ahead.

Q Did you graduate from that training?

A Yes, I did.

Q Are you still in the Army?

A At this time?

Q Yes, sir.

A I am retired.

Q When did you retire?

A I retired on July 31, 1969.

Q When was this NCO training?

A The first one I mentioned already?

Q Yes.

A That was in 1955.

Q Was there another NCO training after that?

A Yes. Once I returned to the States after my tour of duty in Germany was expired, I joined the Airborne branch of the Service and, consequently, I received NCO training in the Airborne Division, 101 Airborne.

Q Between the times that you received that training and the time you left the Army, can you just generally tell

us what kinds of work you were doing in the Army?

A Once I got into the Airborne, from there I became Assistant Platoon Sergeant, the heavy equipment platoon sergeant outranked me, so I became an Assistant and there my duties were generally the same as I have described previously.

Then I went into Special Forces which took me to -- I was sent on assignment back to Okinawa and using that as our base, I was sent to several different parts of the Far East.

Q Did you ever have any occasion during those assignments to train other individuals in the use of heavy equipment?

A Yes. With my experience I was selected to go to the Philippines where I trained Philippine nationals in the Military, Philippine engineering army to operate equipment that the United States Government had assigned to the government and also to set up a logistical system where supplies and maintenance for the equipment was able to be secured.

Q What kind of discharge did you get from the Army?

A An honorable discharge.

MR. DEVORKIN: May I have the Court's indulgence while I show some documents to counsel?

(Pause.)

MR. DEVORKIN: Without objection, I am offering Plaintiff's Exhibits 79-A, B, C and D for identification, which are part of Mr. Pratt's Army file.

THE COURT: Received in evidence.

xx (Plaintiff's Exhibits 79-A to 79-D for identification received in evidence.)

BY MR. DEVORKIN:

Q When you retired from the Army, Mr. Pratt, where did you come to live?

A I came back to New York City, Jamaica, Queens, to be exact.

Q Did you ever seek at that time workas an operating engineer?

A Yes. After getting out of the Service, looking around to find out what I wanted to do or what I was able to get as far as employment, I had occasion to go down to Local 15 to see about the possibility of getting into the construction industry in this City.

Q Before that had you ever spoken to anyone else about doing that?

A About what?

Q Getting into the construction industry?

A Before my initial visit? Just I had stopped

on a couple of jobs, I had driven around Slattery's job, passed by in my travels and stopped and spoke to one of the operators and asked how I went about getting into the local.

The fellow I spoke to referred me to the maintenance engineer that was on the job being one of the trailers. I went over and spoke to him and he told me all employment was done through the local and I would have to go down to the local and talk to one of the delegates.

Q Did you ever go to any other job sites besides Slattery to do that?

A Yes. There was a job out at Kennedy Airport which is close to where I was living at the time, and I went through the same procedure and I was given the same information.

Q Did you ever go down to Local 15's hall?

A Yes, I went down to Local 15. I don't remember the exact date.

Q Which year was it?

A It was the fall of 1969. I don't remember who I spoke to, but one of the delegates, and I was told that --

Q First, what did you tell him?

A I told him that I would like to see someone about getting into the union and, consequently, getting

work in the construction industry.

MR. KENNEDY: Can he fix a time? I don't know what year it is.

Q Is this in the fall of 1969?

A The fall of 1969, yes, sir.

Q Did you tell him about your Military experience?

A I didn't go into detail because I wasn't asked about it, about my experience. It was just where I had last worked and I made the comment that I hadn't done any civilian work, most of my experience was in the Service, and I was told, consequently, that I had to have some civilian experience.

Q In order to do what?

A In order to get into the union.

Q Were you told about any other conditions about getting into the union at that time?

A Not at that time, no.

Q After you were told that, what did you do?

A I said, well, I just thought to myself I had to have civilian experience, but I can't get a job until I get into the union, so I guess I might as well forget about it.

Q Anything said about any kind of schooling?

A At that time? No.

Q When you say you forgot about it, what did you do next?

A I looked for other means of employment working in other jobs over in Jersey. Through my cousin I had been informed of the possibility of getting into the Bell Telephone System. He was already employed and later I was contacted by them.

I made an application and then they contacted me to come down and take the test, written test, which I passed, and I entered employment after two weeks of training in one of their schools.

Q They gave you the training?

A Yes.

Q Did you ever any Telephone Company experience before that?

A I had telephone experience in the field in the Army, stringing wires and wiring field sets, things of that nature.

Q How long did you keep that job?

A I am still employed with the Telephone Company.

Q Did you ever do what was suggested to you at the union hall, that is, obtain civilian experience?

A Yes. It was through watching TV. Me and my family was watching TV and there was a commercial on Channel 9 which came on telling anyone that wanted to get into

the heavy equipment field that schooling was now available and to call a certain number which they gave out on the TV and you would be contacted, which I did, and consequently I was contacted by a representative from the company.

Q Do you remember the name of the school?

A It was Interstate.

Q Where was it located?

A The school was located in Jersey.

Q Did you ever go to that school?

A Yes. After contacting the representative they sent a man out to the house and he took an application from me and was trying to sell me on going to the school, at which time I told him that his salesmanship wasn't necessary. I didn't really need the training, but I had to have a certificate showing that I had attended some civilian training, received civilian training from some affiliated school in order to get into the union.

So I told him at the time my experience and he told me at the time it might even be possible that they would hire me as an instructor because they were looking for people because they were expanding.

Q Did you ever go to that school?

A Yes, I did, in March of 1970.

Q 1971 would this be?

A Yes. In March of 1971, I think it was. I went to the school.

Q What did you do at the school?

A I trained on weekends. I went to the school. We had classroom work and practical application on the equipment.

Q Did you learn anything at that school?

A Not really. Most of my time, my practical application time was spent in instructing other students on how to operate a grader which was a piece of equipment that the two instructors they had didn't seem to be familiar with.

Q How long did you spend at the school?

A I had to keep my job, so I went on weekends and went for eight weekends.

Q Did you pay for that school?

A Yes, I did. It cost me $955.

Q Did you graduate from that school?

A Yes, I did.

Q Did you get a certificate?

A Yes,I did.

Q What did you do next to find operating engineers' work in New York?

A First I informed them, told one of the vice-presidents of the school that I had been told that once I completed my training at this school they would intercede for me as far as entering into the union, which they didn't do.

So I got my diploma after I finished my training and he did offer me a job as an instructor in the new school that they were going to open up somewhere in New York, outside of New York City.

Q What was your first job after that?

A He mentioned a figure of what he wanted to pay me, which was far below what he was paying the two instructors he had, so I declined his offer.

Q What was your first job as an operating engineer after that?

A My first job?

Q Yes, sir, anywhere.

A My first job was a well point.

Q In New York or somewhere else?

A That was in New York.

Q Did you ever come back to the union again? That is, Local 15?

A That is where I got the first job. I was sent out for job interviews at which I did operate a few pieces

of equipment to demonstrate my ability but I was never offered the type of money that that job was calling for at the time, so I never accepted any.

Q Where was this?

A Well, through the school itself. They had promised us they would give us job interviews, send us to different places for placement, and this was not through the union but I was sent one time somewhere near and another time I was sent over in Jersey.

Q Did you go back to the union at some time?

A Yes, I did.

Q When was that?

A After I saw I wasn't going to get anything to the school as they promised, I took my diploma and I left and I went back to the union and told them I had a diploma with me and I had completed my training in the school.

Q Do you remember who you spoke to?

A At that time? No, I don't.

Q Was it a union delegate?

A One of the delegates, yes.

Q What did you tell him?

A That I was in the school and I wanted to try to get into the union now.

But I was told at the time, told then that whoever I talked to said there had been several people

come down from this school with this diploma and it didn't mean anything. I could have gotten just as much if I went to the union school and saved my money.

Q Did you tell him why you had gone to the school?

A I told him I thought I had to have civilian schooling. He said somebody misled me or something. I didn't who I spoke to.

Q At that time did you tell him about your Military experience?

A I got a chance to talk to Danny Murphy later, not right at that instant, but I spoke to Danny later and told him what I had been through and he seemed to sympathize to some degree and so he told me to come and shape the hall and try to get me out on some jobs on a permit, working on a permit.

Q Did you shape the hall?

A Yes, I shaped the hall.

Q How often did you shape the hall?

A I came just about every day for about three weeks.

Q What did you do at the telephone job?

A I was working nights, so it didn't interfere with my employment.

Q What are your hours at the phone company?

A 4 to 12.

Q You shaped in the morning at the hall?

A Yes.

Q How long did you do that?

A Well, for about three weeks before I went out on my first job.

Q What was your first job?

A A well point job.

Q How long did that last?

A For three days.

Q Do you know why you were laid off?

A Well, well point jobs, usually they are limited jobs, only for two or three days unless you go on a big project.

But the job was completed, so we were told to report back to the hall.

Q In those three weeks did you ever ask why you weren't sent out?

A No, I didn't ask. I was talking to other people in the hall. I was told that, well, the halls were full, so I assumed things were slow.

I talked to other people in the hall and they said usually when you first get into the union, I guess,

I don't know whether they were seeing really who was sincere in working or not, but it is usually two or three weeks before you get sent out, especially if there was someone in the hall who has a book.

Q After that well point job was over what did you do next?

A Well, Danny came up to me later and told me that an opening had opened up in their school I had mentioned prior.

Q Had you gone back down to the hall after the job was over?

A Yes.

Q How long did you stay in the hall until Mr. Murphy said this to you?

A Only a couple of days -- I don't know. I got the impression that your performance on a job had a lot to do with whether you were considered for future employment, so it seemed as though the waiting to see what type of attitude I had toward working, different types of jobs or something. This was my opinion. I don't know.

Q What did Dan Murphy say to you?

A He told me that, if I remember correctly, he said after I explained to him about my experience and I had voiced the desire to become more familiar with types

of equipment that were being utilized in New York City area, the told me that there was an opening in the school, if I wanted to I could have the opening.

In other words, go to the school on Saturdays and brush up my skills that I had and learn some of the other skills because I had mentioned to him I wasn't too proficient on the backhoe, which is a piece of equipment I never particularly liked, and this was one of the theses that was predominantly used in the New York City area.

Q Did you actually go to school after that?

A Yes, I did.

Q How long did you continue to go to the school?

A I would say I went about between 8 and 10 months.

Q Do you remember the date or approximately the date when you began the school?

A No, I don't.

Q It would still be 1972 or 1971?

A 1971, in the fall of 1971, I believe.

Q Were you given a test at this school?

A I wasn't given a test except -- when I think of a test I think of stakes being driven or timing. I was given a profiency test where I was looked at, I was allowed to operate different pieces of equipment for a time and

then at a later time I was asked to see what I could do as far as loading a truck and backfilling a ditch, operating a dozer.

Q Were you sent out to school to learn equipment or sent out there to refresh yourself or any other reason?

A I was sent to refresh and to learn, as I said before -- I was refreshing myself on pieces I hadn't operated in two or three years, plus the learning of the backhoe which I wasn't at all proficient with.

Q In your opinion, after how many times in the school, after how much time had you satisfactorily refreshed yourself on the equipment?

A Well, the dozer, I would say after a couple of weekends on the dozer I had pretty well gotten my touch back.

The front loader, because of utilizing the newer type front loader, it took me a little longer. I would say I felt I was ready after I had been there four or five weekends.

Q Have you seen the school administer tests to other individuals?

A Yes, I have.

Q Frequently or infrequently?

A Well, they did it whenever someone demanded it

or if you went up and said, "I feel I am ready to go," they would -- I don't know how often it took after that, but eventually they gave you a test, set up stakes as a guideline or a white line to see how straight you can use the backhoe and things of that nature. But they were given tests.

Q In view of your experience in the Army, do you have an opinion about the quality of the training at the union school compared to the Army training you received?

A Well, my opinion is that the quality in the Army school was better because of the attention to details that they went into.

Q Do you have an opinion about which examination, the Army examinations or the union training school examinations are better examinations?

A Yes. The Army examinations were better inasmuch as you actually performed a project and like from road-building, you had to go through all the steps of digging of ditches, filing the stakes, bringing in your road and utilizing your blue top stakes at the completion of the road.

Q Why isn't the union training school as good as that?

A Well, I really don't know why it is not done

that way, in that much detail.

Q What is there about the union training school that makes it not as good as the Army school?

A In the Army school you had more or less a student and teacher method going on where the teacher had so much information that he had to impart to you. They had to do that to give you the complete maintenance system and before operation, during operation and after operation, the maintenance requirements of each piece of equipment that you learn there before you got out of the school.

When it came as far as building a road, they had to teach you backsloping, ditching, road-building, construction of the road, and you had to get it in order to get out of the school.

But the union, their training is more on what your desire is, if you desire to graduate from the school you apply yourself more. If you don't, then you would be there for two years, three years, depending on the individual.

T-6-1 P.M.

jbcg 1 Pratt-direct

Q If you know, are the training school conditions real situation conditions or simulated conditions, in the union school?

A Well, in the union school some of the surface equipment, I would say it was, like loading trucks and things like that and that is generally real training situations.

But, the work that is done with the backhoe is not, because out there you have nice clear ground. You will eventually learn how to dig a ditch that is both level under the ground plus straight, as far as learning how to work around pipes and things of that nature.

There is no pipes in the ground out there.

Q Have you ever seen a circumstance where a man would be assigned to do a job but he never had been in the situation before?

A Oh, yes. Say, for instance, operating a dozer, if you learn to control the dozer when you can make a level cut, move dirt, raise it from one point to another where you want it, then you are considered qualified to operate a dozer, which you are, but if you get out into -- if the job that you are sent out on is a demolition job, you don't have, other than talking to someone else that may have already done it, you wouldn't know how to approach knocking down a wall.

Q What usually happens when that situation occurs?

A Well, if you don't know what you are doing, the wall can come down on top of you, and there are a lot of safety things that can happen.

Q Is it difficult or easy for a man to pick up a new situation on a job?

A Well, again, it depends on who the man is.

If he has the respect for the equipment that he knows the situation, then it's not too difficult for him to learn it but he can't approach it without having talked to someone that has probably already been in that situation where they can tell him what to be careful for and what to look out for.

Q In your opinion, would a man who has become proficient in operating machinery in the armybe qualified to operate in New York.

MR. BRADY: I will object, your Honor. I think the witness has testified that it depends on the man. He said that a number of times.

THE COURT: Maybe that's what he is going to answer.

I will overrule it.

A Given a little additional training to deal with the situation that he will be in, in New York City, yes, I

feel that a man that has operated in the army will be able to operate in New York City.

6-2

Q Do all individuals you have seen operate in New York City on heavy equipment operate on more than one piece of equipment?

A You say all of them?

Q Yes.

A No. There is some. There is a few that I have seen that were unable to operate more than one piece of equipment.

Q How about at the training school of the union?

A The training school? Well, it's hard to say because the training school, that is what they are out there for, really.

It is to get the man to operate more than one piece because you don't spend your time on only one piece of equipment out there.

Q Are there some people who do operate one piece at the school?

A At the school?

I don't think I can really say, because the ones that I had any rapport with usually switched around after a certain length of time.

Q Have you seen union members at the school?

A Yes, I have.

Q Do you know what they regularly operate?

A Yes. I have spoken to severalof them and at the time that they got their book they had only one skill, probably, and since then, since the union had opened up the school, they were trying to expand on their experience and learn to operate other types of equipment.

For the students that are in the school at this time, they are told when they get there that they have to be able to operate more than one piece of equipment.

Q Once you began going to the training school, did you continue to go to the union hall to look for work?

A Yes, I did.

Q What kind of work did you get, if any?

A Well, I got -- I was sent out on grader jobs, I was sent on one grader job. I worked for about a week and a half the job terminated.

I was sent on another job and worked approximately a month and a half to two months and then it terminated.

The type of work that I was doing was what is completed, so I was sent back to the hall and I have been on several jobs.

Q In between those jobs, how long did you wait in the hall?

A Well, it varied. Once I was on a job and I went back to the hall and I waited about three days and I was sent back.

Another time I came back off a job and I was in the hall a week.

Q What was the longest you were in the hall?

A Well, the longest I was in the hall was, after I had begun to work, was about, I would say, two weeks.

Q In the beginning, when you went to the hall, did you ask Mr. Murphy, Dan Murphy, about getting into the union?

A No. You say at the beginning. You mean when or after I had come back from the civilian school?

Q Yes, sir.

A Yes. I had spoken to him about getting into the union.

Q What did he say, if anything?

A He said that they have a board set up for members to get into the union and I could work on a permit until my name came up before the board.

Q Did he put your name on a list of any kind?

A I didn't inquire as to whether it was a list or not.

Q Did he tell you how long you have to wait?

A No, he didn't.

Q Did he tell you anything about any test that they give to get into the union?

A No. A test wasn't mentioned to me. It was just that it was right after that -- well, at the time we didn't talk any length about the subject. It was just that he told me this as information and I was told that, you know, to come into the hall and I could work under a permit and then me gave me told me the details about you have to be there every Monday when a new list is written up; every Monday you have to be there and I had to be there every Monday morning in order to be sure I got on the list and people were sent out on jobs from this list.

That's the only list we discussed.

Q Did he say anything about sending you to a contractor to test you out?

A Contractor to test me out?

Q Yes, sir.

A No. I think that -- I am not quite sure where I heard it but I think he mentioned the fact that contractors have a way, if you are not good enough on the job, they have a way of letting them know at the hall,as far as your ability is concerned.

Q Do you know why you were laid off any of those jobs?

A Well, in my case, the job that I was doing at the time was always terminated. In other words, we completed.

Q Did you ever get sent on a job that lasted more than a month or two?

A Yes. I had an occasion of being sent to work on a tunnel and, around,let's see -- I think it's 79th Street and Riverside Drive. I worked there approximately five and a half months, six months.

Q And how many jobs had you received from the hall before you got the tunnel job?

A I would have to say anywhere from 8 to 10 different jobs.

Q And how much actual working time did those 8 to 10 jobs entail?

A Well, none of the jobs that I was on lasted -- I think one job was about a month and a half and that was the longest.

Q During that month and a half, did anybody offer you a union book?

A No. I was never offered a union book. I was going to the school at the time and I don't know what the policy is but I don't believe you are offered a union book, just like that.

Q How long were you on the tunnel job?

A The tunnel job, about five and a half months.

Q Did there ever come a time on that job when you were offered a union book?

A Well, the time came on the job that I was told that I -- I was told by the maintenance supervisor that I had to appear at the union hall to speak to the board, the union board, about the membership into the union.

Q Did you get into the union at that time?

A Yes, I did.

Q And how long had you been on the tunnel job?

A At the time I got into the union I had been on approximately 3 months.

Q When you were working in the tunnel, were there other operating engineers working in there?

A Yes, there were.

Q Roughly how many, if you know?

A Well, I can't say how many. I assume the other end of the tunnel was operating the same as we were but, operating engineers, we had, I would say, approximately, on one shift, eight; 8 operators.

The shifts changed and whether the number remained the same or not, I have no way of knowing.

Q Do you remember if those men were black or white?

A They were both.

Q And how many of each?

A Well, the ratio was more -- I think it was more black than white and I got --

Q Have you ever seen a white operator refuse a tunnel job?

A Have I seen one? I have heard one refuse it, yes. He had a fear of tunnels. He didn't want to go into tunnels.

I think at the time that I went, initially, into the tunnel, one of the fellows that was approached about going indicated that he didn't want any tunnel jobs.

Q When was it that you got into the union?

A I don't know exactly. It was approximately October.

Q Of which year?

A '72.

Q After you got your union book, did you keep working on that tunnel job?

A Yes, I did.

Q How long did the tunnel job last?

A It lasted until, again, I don't recollect the time, approximately November, sometime in November.

Q After it was over, did you get more work from the operating engineers?

A Well, first I was told that as soon as they did

some revamping inside and they went back into the head, I would be called back onto the job, so I was waiting around for that.

I did not even go down to the union for a while.

Finally, I did but I didn't get in any more jobs mainly because of a back injury I had sustained that had started acting up again and I was unable -- I knew I would be unable to operate any heavy equipment so I just, rather than took a job, I got an easier job back with the telephone company.

Q In that tunnel job, what kind of work were you actually doing?

A I was operating what we call a carryall. I was operating -- it's an overhead type crane, more or less, for carrying the form.

It was a form carrier, what they called it, and it was utilized to carry the forms from one place to another.

Q Does the union school have one of those machines?

A No, they don't.

Q After you began to work for the Telephone Company again, did you ever go back to the hall?

A I went back several times, but each time I went, the number of people in the hall made me -- I would go down the list and I would come back for one or two days, but, then, I would stop coming for a while because I had to have a steady employment and the general conversation was that work was so bad that certain people were getting -- certain people that had the permanent jobs, that the little jobs that was actually coming in at the time wouldn't make me want to give up what I was doing, because the Telephone Company had changed my shift in the meantime and I was working days, so I couldn't afford to let that go and go sit in the hall.

Q Mr. Pratt, when you were sitting in the hall on any of these occasions, the men who received job slips, were they always sitting there with you?

A Well, you have no way of really knowing because of the revolvement of the people, unless you knew them personally.

Q What do you mean, the revolving of the people?

A Well, you wouldn't see the same faces every day. You would see some of the same faces but, as people went out, I had no way of knowing how long they had been there or whether they had just come that particular day or not. I couuldn't testify to it.

Q Did anybody ever come into the hall who hadn't been sitting there?

A Again, I wouldn't be able to state definitely.

Q On some of these jobs that you described for us, were they long jobs or short jobs, putting aside the tunnel job?

A That I had?

Q Yes, sir.

A Well, I would state that the majority of them were short jobs except for the one-month-and-a-half job.

Q Do you know whether or not that job actually belonged to anyone else?

A The ones that I went on?

Q The short jobs, yes.

A Only in one instance did it belong to someone else.

Q You were covering for him?

A Yes.

Q If you could get more work from the hall, would

you go back down and shape every day?

A If I could get more work?

Q Yes.

A Yes. If I could get enough work where I felt that I would be able to maintain my life style, sure.

Q And have you ever complained about not getting as much work as you would like?

A No, I never complained, not really, because, as I said before, I had no way of knowing how -- you know, how the location was being done, and I had my own opinion, probably, but I didn't have anything that showed that, you know, some people were going out and others weren't, so when I didn't go out, I assumed that it was because of the amount of people in the hall and I just couldn't afford to wait.

Q Did you ever see anyone else complain about their situation?

A I have heard a lot of people complain, but, being in the Army, I was pretty conditioned to that.

MR. DEVORKIN: I have nothing further, your Honor.

MR. KENNEDY: I have no questions.

CROSS EXAMINATION

BY MR. BRADY:

Q Mr. Pratt,the people you heard complain, were they both white and black?

A That I heard complain?

Q Yes.

A No, because I didn't converse too much with the white people and the ones that I knew weren't -- might not have been in the hall at the time I was there.

I didn't know that many whites in the union.

Q When was it that you hurt your back?

A That was in 1972, I believe.

Q '72?

A I don't remember exactly. I know it was when I was out with the family.

Q When was it you got out of the school?

A I got outof the school in October, when I got my union book.

Q '72?

A '72, yes.

Q Was it about that time that you hurt your back?

A No. It was the next year; '73.

Q Did that back disable you from employment for a period of time?

A Well, I didn't try to analyze it. I knew from my own experience that operating heavy equipment with a back injury wasn't the best thing in the world for it.

Q How long a period of time was it that you did not attempt to get any work out of the union?

A Well, for almost a year, I guess.

Q Was that up into this year, as well?

A Well, I went back this year and I made a request that I be allowed to go back to the training school to more or less feel myself out and see if it would hurt me to go out on the job for eight hours a day.

I was informed by one of the delegates that ran the school that, at that time, the school was loaded and I would not be able to but to check with them later and maybe I could get out there.

Q When was that, Mr. Pratt?

A Well, that was the spring. Well, not quite spring; I guess it was around March or April of this year.

Q You really haven't attempted to get much work, have you?

A Well, I haven't made a hard attempt. I went down, got on the list, maybe showed up for a couple of days.

If the number of people who were in the hall hadn't

diminished anything seeable, then I just wouldn't come back.

Q One of the reasons for that was that you didn't want to jeopardize your Telephone Company job, is that so?

A Well, I felt that my job with the Telephone Company was good enough for, you know, I didn't want to lose that unless I had the prospects of something a lot better.

Q You testified about the type of training in the Army versus the type of work that you do either at the school or outside.

Isn't it true that the employer in the construction industry in New York requires greater production than you would find required in the Army, the speed?

A No, I wouldn't say that is true because the majority of times, our training in the Army, construction in the Army, dealt with a time schedule.

For instance, when I was in the Airborne Engineers, we air-lifted our whole battalion, air-dropped all of our heavy equipment and had to construct an air field in a two-day period in order for that first 130 to land and that first 130 was on its way and, if we didn't have the field constructed where he can land, then we failed the exercise.

Q Laying out a field you have a little more space

to work in, don't you?

A Oh, yes. Well, I am not saying you are confined to any area but, there wasn't time.

Q When you went to the school, did you ever ask to be tested before graduation?

A Did I ask to be tested?

Q Yes.

A No.

Q Did there come a time when you were asked if you would like to be tested and you declined to be tested?

A Not asked and declined. I was asked if I felt I could pass a test, to which I gave an affirmative answer.

Q You gave an affirmative answer?

A Yes, I told them I felt, except on the one piece which I mentioned before, and I made it clear to the instructor or the delegate that asked me at the time, that I didn't feel that I was qualified on the backhoe, because I wasn't.

Q How long had you been at the school at that time, roughly?

A I had been there, say, approximately -- well, I had been there a while, but I had never been on the back-hoe. That's when this came up, when, if you are talking

about what I am thinking, I am thinking of a specific incident where I was asked -- I asked. I said I don't feel that I am ready to get out of here because I haven't been on the backhoe and if I stay on this type of equipment, I am not going to gettrained in the backhoe and at that time I requested it and I got trained on the backhoe.

Q And in October of '72, when you passed, you got your book?

A Yes, sir.

Q And all the time, the eight months you were in the school, eight or nine months, you were referred out to work from the hall, isn't that so?

A Yes, mainly. Well, to the delegates, a couple of jobs were brought to me out at the school and I was told to go there the next day, but the work did come through thehall, yes.

Q In the fall of 1969, you said that you first went to the union and do you remember to whom you spoke when you went there?

A No, I don't.

Q Do you recall they told you what the work situation was at the time?

A What do you mean by work situation?

Q Well, did they say there was no work, some work?

A No. I wasn't told that.

Q How long a period of time did you talk to the man at the hall?

A That initial time?

Q Yes, sir; in 1969.

A Well, it wasn't a long conversation because I was told that without some type of civilian experience that they could check my record out, I didn't hope to get into the union at that time.

So, I was left with the impression that I had to either get a job with some civilian firm or get some civilian schooling.

Q And you told him that your experience had been in the Army?

A We didn't go into that. I told him my experience was in the Army, yes, but what type I didn't go into, the details of how much or what.

Q You didn't tell him that you were an instructor?

A No, sir.

Q And you were in there for 20 years, and so forth?

A I just told him I was retired from the Service, that's all.

Q You hadn't told him how long you had been operating

equipment in the Service?

A At that time, no.

Q When you came out of Interstate, you said you were sent out to some jobs, but was it that you were never offered the jobs or there wasn't enough money?

A I was offered the jobs. One of them was operating three pieces of equipment almost simultaneously at $3 and something an hour and the other one was operating a piece of equipment in a track but to travel, I would have had to move and live there or bivouac there for the week days that I worked and without any compensation.

Q When you went down to Local 15 again, Mr. Murphy told you, Dan Murphy, told you to shape the hall?

A Yes, he told me to come in and I would be allowed to work on a permit.

Q When was it that you went out to the school? How soon after you went down to the hall did you go to the school?

A Well, it was a few weeks later. I don't remember exactly when.

I think it was in the fall, I believe, starting to get a little chilly.

Q But you had already had a referral to a job, a well point job, before that?

A Yes.

Q Then, when you went to the hall, did someone ask you to get up on some equipment and they observed you operate?

A No, not as far as me getting up and demonstrating.

I was told that we were all -- I was, you know, given the operational procedures of the school and I was assigned to a piece of equipment like all the other students.

Q Did you find the training helpful to you?

A I found it helpful to me only because I had had prior experience.

Q Did you see people come to that school, black people, who came and trained and graduated, that didn't have the experience you had had?

A Yes,correct.

Q Did they receive their union books?

A I believe they had a book. I can't say from personal knowledge that they do, but I believe they have.

Q Have they been referred out to work?

A Yes, they have.

Q How long did it take them to complete the training?

A Well, I don't know. They were there when I

left and I have only been back once, I think, since I left.

Q Have you gone back there to brush up on your skills? Is that why you went back?

A No. I just went back to see one of the fellows I had developed a comradeship for.

Q You said there were union members you had seen come out to the school to increase their skill?

A Yes.

Q And was that so that they would have greater opportunity to have employment?

A Well, whether it was a requirement that somebody told them about or whether they were doing it out of their own initiative, I don't know.

All I do know is that they had their book and they did go back for additional training.

Q They wanted to learn how to operate other pieces of equipment, isn't that so?

A Yes.

MR. DEVORKIN: I object at this stage because there is no evidence that Mr. Pratt would know why somebody else did something.

THE COURT: All he has to say is he doesn't know.

MR.DEVORKIN: He is asking about a conclusion about the state of mind of another individual.

THE COURT: All right. Let's go on.

Q Mr. Pratt, you testified on direct testimony that you spoke to some union members and you testified that they told you they were only proficient on one or two pieces of equipment, isn't that so?

A Yes.

Q Did they tell you why they were at the school?

A Well, one of them told me that he was going back to learn how to operate other pieces of equipment.

Q So, other pieces that they weren't yet proficient on?

A Yes, I guess.

Q Was that so that they could get greater chances of employment?

A Well, we didn't discuss the reason for going; just that he felt that he wanted to go back to the school.

Q No one said to you that "I can only operate one piece of equipment and I don't get that much work"? Did anyone ever tell you that?

A No. All he told me was that he was just told that there was an opening for him to go back. He had been on the list and I guess these skills were required

in these jobs, working in the different jobs, being sent out from the hall, and he wanted to go to school and he was finally given the opportunity to go.

Q This man,by the way, was he black or white?

A The person I am speaking of now is black.

Q Did he say how long he had been a member of the union?

A No.

Q While you were in the school, you said you were sent out on a grader job, a scraper job and several other jobs.

Did you get a lot of jobs to operate equipment while you were attending the school?

A Well, I don't know what the determination of a "lot" is, but, like I said, I have been on between eight and ten jobs.

Q Were they all operating equipment?

A Except for the well point, the one well point job, they were all equipment operating.

Q The well point was before you went and what you got out of school you were sent out to operate equipment?

A Yes.

Q You were receiving, of course, the full union contract rate during that period?

A Yes.

Q You said the longest you were out was about two weeks between jobs, that you waited?

A Well, approximately that. I am not sure of the length of time.

Q With the Telephone Company, Mr. Pratt, you have been working there for how long?

A Almost five years.

Q Do you operate equipment with the Telephone Company?

A No; not heavy equipment, no.

Q Does the Telephone Company have that job classification, equipment operator?

A No, they don't.

Q Are you operating some sort of equipment?

A A test console.

Q Nothing to do with heavy equipment?

A Nothing to do with heavy equipment.

Q Do you still suffer from the back injury you sustained?

A Do I still suffer?

Q Yes.

A No, I don't suffer. I know I have a -- I had a back injury. Whether it's completely healed, I have no

way of knowing. It doesn't bother me now.

MR. BRADY: No further questions.

REDIRECT EXAMINATION

BY MR. DEVORKIN:

Q Is there a grader or scraper at the training school of the union?

A There wasn't when I was last there, no.

Q Was there one when you were first there?

A No.

Q It was your testimony on direct that you were sent to the school partially at least to learn a backhoe?

A Well, no. I was told that there was an opening and that I could go if I wanted to.

Q How long was it before you actually got to operate a backhoe at the school?

A I had been there for about two and a half or three months.

Q Did you ever take a graduation test at the training school?

A I didn't take a test that was more or less laid out by stakes and lines or something, nothing of that nature.

I did take a test, as I said before, more or less a visual test. I was told to load trucks and there

were instructors watching and I was given a dozer to help level off an area, backfill the ditch, and things of that nature, and they watched.

Q They just said, "Backfill the ditch"?

A Well, yes. I was sent over to backfill some ditches that had been dug by the cranes in Local 14.

Q That was on a dozer on the other piece of equipment --

A One was on a dozer and one was on a truck loaded with a front-end loader, plus I filled a ditch with a front-end loader.

Q Were those the only tests you were given?

A Well, like I said, I didn't consider them more or less -- I knew I was being watched to see how I was handling the equipment, but, as far as being tested for grade or anything like that, I didn't consider that I was being tested.

In fact, I didn't know until later that this is what they finally decided that my ability was great enough to get into the union on.

Q But it was just the dozer and the loader?

A And, well, I had been operating the backhoe. My skills in the backhoe had been -- because of the fact that I had had some guidance from an operator who was

working at the school, helping out as an instructor, my skills in the backhoe did become fairly proficient.

Q But did you ever have one of these visual observations, as you have described it, on a backhoe?

A Well, I was watched. The person that was giving me the instruction, he was asked, you know, how I was doing.

Q Did anybody ever come up to you at that time and say, "We are now going to give you the test on the backhoe, we are going to give you the test on the dozer, we are now going to give you a test on a dozer"?

A No.

MR. KENNEDY: Is that one question or three?

Q Did any of those things ever happen?

A No.

Q You had been working on that tunnel job for three months when you got your book?

A About three months, yes.

MR. DEVORKIN: Nothing further.

RECROSS EXAMINATION

BY MR. BRADY:

Q Is it your testimony that at the school you didn't work on the backhoe at all until the later months?

A Right. I hadn't been on the backhoe at all.

Q So, in November of 1971, you did not work the backhoe, or January and February of 1972?

A Well, I am just not pinning it down. I know that for approximately the first two and a half or three months that I was there, I hadn't been on a backhoe and this is what I felt that I really needed and, when I brought this to the attention of the instructors, then I was given the opportunity to get on it.

Q As a matter of fact, you did have an opportunity to operate the backhoe at various times throughout the school but you wanted more attention given to the backhoe, isn't that so?

A No. At the time, and I don't know whether it has changed or not, but, at that time you were assigned certain pieces of equipment. They only had three or four backhoes at the time and the people that were on them at that particular time were going through a period of training and, rather,than just having us standing around watching, he limited it to two people to the backhoe and the rest of them were placed on the other pieces of equipment.

T7

Q Do you know how long these people ran the back-hoe before you had an opportunity to do it?

A Like I said, I was three months.

MR. BRADY: I don't have any further questions.

THE COURT: You are excused.

(Witness excused.)

THE COURT: Do you have another witness?

MR. DEVORKIN: I do have another witness.

THE COURT: I can't start until 10.30 tomorrow. If this is agreeable with counsel?

MR. BRADY: Your Honor, I do have a meeting at 14th Street at 5 o'clock.

THE COURT: Then I guess we better adjourn. You can call him in the morning. We would only just be able to have a few minutes.

We will resume at 10.30 tomorrow morning. I have some matters at a quarter of 10 and so on, but I think I will be free by 10.30.

(Adjourned to October 1, 1974, at 10.30 a.m.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Robert White	1230	1258		
Arthur Kennedy York	1262	1287	1299	1300
Lester Stephenson	1302	1318	1326	
Herbert Screen, III	1327	1356	1378	
Clemon C. Pratt	1379	1419	1431	1433

EXHIBIT INDEX

Plaintiff	Identification	In Evidence
76		1330
77		1330
78		1337
79-A through 79-D		1391

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff,
vs. 72 Civ 2498
LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, et al.,
Defendants.

New York, October 1, 1974;
11.45 A.M.

Trial resumed.

- -

MR. DEVORKIN: Good morning, your Honor. I think we have a couple of housekeeping matters again in the way of exhibits and I would like to begin with that.

THE COURT: All right.

MR. DEVORKIN: I am going to offer some more recent contracts supplied to me by Mr. Brady, and in doing that I have prepared a revised exhibit list that might help the Court to follow from what we had before.

THE COURT: Thank you.

MR. DEVORKIN: Some of the items on this list have already been received in evidence, and I am simply offering some additional items.

THE COURT: Yes. I have been following this, and there are additions on it.

MR. DEVORKIN: I think I will just proceed to read those numbers, then. Counsel for both unions have a copy.

THE COURT: Why don't you give it to the reporter to save time of all concerned? There is no objection to these exhibits?

MR. BRADY: No objection.

MR. KENNEDY: No objection.

THE COURT: Received in evidence and furnish the reporter with a list.

xx (Plaintiff's Exhibits 44-B, 48-D, 48-E, 49-D, 49-E, 50-B, 50-C, 52, 53, 72, 73, 74-A, 74-B and 75 received in evidence.)

MR. DEVORKIN: We also have identified as Plaintiff's Exhibit 11-A for identification, which consists of all of the executive board meeting minutes of Local 15 beyond the ones that I have already introduced in Exhibit 11. They are dated from January 13, 1966, through August 29, 1974, and there is an index in front of the exhibit.

THE COURT: Thank you.

MR. BRADY: We just have the same objection we raised before, the relevancy.

THE COURT: Yes, received.

xx (Plaintiff's Exhibit 11-A received in evidence.)

MR. DEVORKIN: The plaintiff calls John Henlon.

J O H N H E N L O N, called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DEVORKIN:

Q Mr. Henlon, how old are you?

A 45.

Q Where do you currently live?

A 183 Prospect Place, Brooklyn.

Q Are you testifying under subpoena today?

A Yes.

Q Just for the record, what is your race?

A Black.

Q Are you currently a member of any union?

A Yes, Local 15-A.

Q The Operating Engineers?

A Yes.

Q How long have you been a member?

A About one year and three months.

Q When did you first obtain training as an operating engineer?

A About in 1959, something like that.

Q Where was that?

A In Jamaica.

Q Were you born in Jamaica?

A Yes.

Q Where are you a citizen?

A I am a citizen in Jamaica.

Q A resident of the United States?

A Yes.

Q What kind of resident?

A Permanent resident.

Q How did you first obtain this training in Jamaica?

A Well, first I went to learn to repair heavy equipment. That was in about 1948. I got my first job as a mechanic in 1954.

Q What did you do between 1948 and 1954?

A I was a trainee.

Q In a mechanic shop?

A Yes, in a mechanic shop.

Q What kind of equipment did you work on in that mechanic shop?

A We worked on bulldozers and front-end loaders and rubber wheel tractors.

Q What kind of work did you do on those machines?

A Repair, general repair.

Q Did you do any engine repair?

A Engines, general overhaul.

Q You say in 1954 you began getting experience as an operator?

A No, not in 1954. In 1954 I was working as a mechanic.

Q How long did you continue to work as a mechanic?

A From 1954 to 1959.

Q What happened in 1959?

A Then I start to operate heavy equipment.

Q Who were you working for at the time?

A I was working for Alcan Jamaica, Ltd.

Q What kind of work did you do for Alcan?

A Well, I do five and a half -- four and a half years repairs and seven and a half years as a heavy equipment operator.

Q What kind of heavy equipment did you operate for them?

A Well, I operated scrapers, bulldozers, graders and front-end loaders.

Q What kind of jobs was this equipment used on?

A Well, we do mining. We mined the bauxite and roadbuilding, and we do -- we work on the quarry where we produce limestone.

Q Did you ever receive any kind of awards from Alcan?

A Yes. I received a five-year safety award, also a ten-year safety award.

Q I show you a copy of what has been marked for identification as Plaintiff's Exhibit 80 and ask you if you recognize that.

A Yes.

Q Do you recognize that?

A Yes.

Q What is that?

A This is my safety award.

Q The one you just spoke of?

A Yes. This is my safety award, ten-year.

Q That's a copy of that?

A Yes.

MR. DEVORKIN: I offer Plaintiff's Exhibit 80 for identification.

MR. KENNEDY: For what purpose?

MR. DEVORKIN: Simply to show that the man is a qualified safe operator.

MR. KENNEDY: There is no foundation to show what this award was issued for.

I don't want to go into a voir dire but it seems to me that it is objectionable both in the way it's been offered --

THE COURT: Well, I think we have to have a little more basis for it.

I'll sustain the objection.

We don't know what the standards are in Jamaica.

MR. DEVORKIN: I'll simply offer the award then for the purpose of the fact that he was given such an award.

THE COURT: For that limited purpose, all right. But it can't carry very much weight, you can

appreciate that, because we don't know the standards.

MR. DEVORKIN: I understand. I will offer it for that limited purpose.

(Plaintiff's Exhibit 80 was received in evidence.)

xx Q How long did you continue working for Alcan in Jamaica?

A I worked for 12-1/2 years.

Q Which year was it you left?

A I leave them in 1967.

Q What did you do when you left them?

A I went to work for Revere Bauxite Company.

Q Was that in Jamaica also?

A In Jamaica.

Q What kind of work did you do for them?

A It was putting up a new plant, new bauxite plant, and we prepared the site, excavation, roadbuilding, such as that.

Q What kind of equipment did you operate for them?

A I operate bulldozers and scrapers there.

Q How long did you stay with them?

A Well, I was there for about six months.

Q After you finished working for them, what did you do next?

A I leave, I resigned the job there and went to work for Alcoa Bauxite Company.

Q What did you do for them?

A Operated bulldozers, scrapers and graders.

Q How long did you stay with Alcoa?

A Two years.

Q After you left Alcoa what did you next do?

A I came to the United States.

Q Do you remember which year that was?

A '71.

Q Where in the United States did you come?

A New York City.

Q When you came here did you ever seek work as an operating engineer?

A Yes.

Q What did you actually do?

A Well, first I went to a few contractors and they told me that they can't employ me, I have to go to the union.

So a friend of mine told me that it is hard to get into the union so I said okay. I went to -- heard about this guy Eddie Johnson. He used to have an office in Manhattan. It was a training program, some training program. So I went to him, and he told me

that I have to get a letter of intent, that I intended to be a citizen.

So I went and got the letter of intent and I went back to him and he said, well, okay, I'll have to wait a while before he can try to place me.

Q Do you remember when it was that you went back to him, approximately?

A Some time in '71. I don't remember the direct time but some time in '71.

And while I was waiting I got a job as a laborer, worked with a contractor, install pumps and tanks at gas stations throughout New York City.

Q How long did that job last?

A Well, I worked for that guy for about nine months; then I leave. I went to the next guy, doing the same type of work for about seven months, and I resigned from that job.

Q Why did you resign from those jobs?

A I get a letter from the training program stating that if I can operate any of these equipment there is immediate employment.

So I went down to Fulton Street to one Mr. Jordan.

Q To whom?

A One Mr. Jordan. I think he is in charge of the apprenticeship program down in Brooklyn.

Q Do you know whose offices those were? Do you know who he was working for?

A I believe he worked for the government, or something like that. I don't know. I think it concerned the government.

Q What happened there?

A He sent me this letter and I went down to the office the Monday. He gave me the next letter to take to the union hall in Queens.

I went to Mr. Murphy, Danny Murphy, and he said, "Okay."

Q Well, do you remember approximately when this was that you went to Mr. Murphy, Mr. Henlon?

A That was some time in'72.

Q Do you remember the month?

A I don't remember the direct month. I remember it was -- I don't remember the direct month but I know it was in '72.

Q Did you go down to the union offices or did you meet Mr. Murphy somewhere else?

A No, no. Before Mr. Jordan send me the letter I went to 15th Street, to Mr. Danny Murphy, and I

asked him for employment.

He asked me what I can do. I said, "Well, I can operate bulldozer, scraper, front-end loader and such as that."

He told me that he don't have no job and a lot of guys come in and say they can operate heavy equipment and they know nothing about heavy equipment.

I said, "Well, I spent years in this line."

He said, "Okay, I don't have ho job."

I said, "I am asking you for a form to fill in to become a member of the union."

He told me no.

So I went down to Mr. Jordan and I told Mr. Jordan that --

Q When you went to Mr. Murphy that first time did you have any documents with you?

A No, I didn't show him no documents.

Q Then you went to Mr. Jordan?

A Yes. And I showed Mr. Jordan all my documents that I have ex perience in this line for years.

Q What happened after that?

A Well, so Mr. Jordan send me the letter and told me if I can operate any of this equipment I'll get immediate employment.

So he gave me a letter to take to Mr. Murphy,

and Mr. Murphy said, "Okay, come down to the school Saturday morning."

Q Did you go back to Mr. Murphy with that letter from Mr. Jordan?

A Yes.

Q Did you have anything else with you at the time besides that letter?

A No, I didn't carry anything else; just that letter I take to Mr. Murphy, and he told me to come to the school the Saturday to take a test.

Q Did Mr. Murphy ask you for any references at any time?

A No, he didn't.

Q Did you go to the school?

A Yes, I went there.

Q What happened at the school?

A Well, I took the test on bulldozer and front-end loader.

I told him that I don't have no experience on the backhoe, so I didn't want to take the test on back-hoe.

Q What did they tell you?

A Well, after I took the tests, went back to the office.

Q Which office was that, at the school?

A The school office.

One of the supervisors told me that I was failed, that I failed the test.

So I said, "No, I don't fail the test, man. I am doing this thing for years."

Q Was that supervisor white or black?

A White.

Q What happened next?

A So it was a colored guy who tested me. So the colored guy said, "No, John don't fail the test."

So Mr. -- he told Danny Murphy that I pass the test. So Danny Murphy told me to come to the hall on the Monday and I went.

Q Did Mr. Murphy at that time ask you for any references or letters?

A He didn't ask but I showed it to him.

Q I show you what's been marked as Plaintiff's Exhibit 81 for identification and ask you if you recobnize that.

A Yes.

Q Is that what you showed Mr. Murphy?

A Yes.

MR. DEVORKIN: I offer Plaintiff's Exhibit

81 in evidence.

MR. KENNEDY: No objection.

THE COURT: Received.

(Plaintiff's Exhibit 81 was received in evidence.)

xx BY MR. DEVORKIN:

Q What was it, if anything, that Mr. Murphy told you at that time?

A Well, he told me to come to the hall, and I went to the hall for several weeks. I went to the hall and at that time it was slow and he said to me, "Well, John, since you can't operate the backhoe, and it's slow now, come to the school and learn to operate the backhoe."

Q Let me ask you: at the time that you were first at the school and you took that test and you were told you had passed it, did anybody say anything to you about getting your union book at that time?

A No.

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Q When you were sitting in the hall for those few weeks were there other men in the hall?

A Yes.

Q How many men, if you remember?

A Well, maybe 100 or more.

Q Do you remember how many were white and how many were black?

A Most of the men were white.

Q Do you remember how many black men there might have been there?

A Maybe about 20.

Q Did you stay the whole week or leave early in the week?

A Every day, five days a week.

Q At the end of the week who was left in the hall?

A Well, you have black and white, the white leave at the hall, but you find most black leave the week-end.

Q I don't follow you, Mr. Henlon.

A During the week-end you will find most black will stay over at the hall.

Q Mr. Murphy said something about a backhoe. What did you do after that?

A Well, he asked me to come to the school to learn to operate the backhoe because things were slow and I seen

things were slow myself, so I went to the school.

Q How long did you go to the school?

A Every Saturday.

Q How long?

A I went to this school maybe about five months.

Q What did they have you doing out there?

A During this five months I spent most of the time on the front-end loader and the bulldozer.

Q Do you know why you spent most of the time on the front-end loader and bulldozer?

A Well, I would say because I was capable of operating those machines, more familiar with those machines. Maybe that is why they kept me on that.

Q Anybody tell you why if you were capable of running a dozer or a front-end loader they wanted you to stay on these pieces of machinery?

A The instructor told me that.

Q I am sorry?

A The instructor told me that, they realized I was doing good on the bulldozer and front-end loader.

Q Did you ever get on a backhoe?

A Yes, during the five months at the school I run the backhoe two times.

Q Two times?

A Yes.

Q Were you still going down to the hall while you were at the school looking for work, that is?

A No, I was working. Mr. Murphy sent me on the first job, I spent about three weeks at the school.

Q After three weeks you got your first job?

A Yes.

Q What kind of a job was that?

A They sent me on a bulldozer.

Q How long did the job last?

A About ten weeks.

Q When you were out there were you told how long it was supposed to last?

A He told me that the job would last about four days but the contractor seen my performance and he kept me on.

Q Where was that job, do you remember?

A In Queens.

Q Do you remember who the contractor was?

A Durante Brothers.

Q You were operating a dozer the entire time?

A Operate the bulldozer and the front-end loader.

Q During those ten weeks did anybody from the union come out and offer you a union book?

A No.

Q Do you know whether or not the union knew you were out there for ten weeks?

A Yes, the union knew.

Q How?

A Because the union sent me there.

Q That job ended at some time?

A Well, the job finished and I went back to the union hall the Monday. The job finished Friday and Monday I went back to the union hall and Dan Murphy sent me on the next job to operate a scraper.

Q Did you ever see a scraper at the training school, by the way?

A No, the school doesn't have a scraper.

Q Do you know how to operate a scraper?

A Yes, I spent years on that.

Q Where was the scraper job?

A Starrett City in Brooklyn.

Q Do you know the name of the contractor?

A Columbia Haskell.

Q How long did that last?

A Seven weeks.

Q Did Mr. Murphy tell you how long it would last?

A No.

Q What did you do for those seven weeks, always on the scraper?

A Seven weeks on the scraper.

Q While you were at that job for seven weeks, did any member of officer of the union come out and offer you a union book?

A No.

Q Do you know whether or not the union knew you were employed there?

A Yes, the union knew that I was there.

Q Did that job ever end? Did you ever leave that job?

A Yes, the job finished Friday and Friday night the contractor called me at my office and told me to report to Kennedy Airport as a maintenance man.

Q Had you ever worked as a maintenance man before?

A No, not on well points, no.

Q Was that the job at Kennedy Airport?

A Yes, well points.

Q Did you go out there?

A Yes.

Q How long did that job last?

A Well, the well point job lasted about a week. Then the supervisor asked me to stay as maintenance man

on well point.

Q After the crew had left?

A Yes, the crew left, so I remained there with the 14 men.

Q How long did you remain as maintenance man on well point?

A I was on that about maybe two months. Then they put me to operate the pump.

Q At the same job?

A On the same job.

Q How long did you operate a pump?

A Well, maybe the next three months or so.

Q Do you remember when this job at Kennedy Airport began, what month and year?

A I believe it was some time in May or June, 1973.

Q Did you ever get an offer to become a member of the union while you were on that job?

A No, because at that time I was going to school.

Q Do you know whether the union knew that you were on that job?

A Yes, because after the contractor told me to report to Kennedy Airport I went to Danny Murphy andtold Danny about it because I was on permit and Danny told us

at the school that if a contractor sent us from one job to the next job, a different area, a different borough, you should let him know.

So Danny said to come to the office Monday morning because his father represented that area and his father okayed it.

Q You did come back on Monday?

A Yes, I went to the hall on Monday morning and Danny Murphy's father okayed the job.

Q How long did you stay on that job?

A Five or six months.

Q Did you get your union book while you were on that job?

A Yes, I did.

Q How long after you had been on the job did you finally get it?

A Well, I believe the second month that I was on that job I got my union book.

Q Can you tell us exactly what happened? How it came about that you got your union book?

A Well, one Saturday I was at the school and the instructor came out and said, "Well, they want you in the office."

I went to the office and Mr. Guma told me that

he is satisfied with my performance and so the next seek I must prepare my money to get my union book. He wanted to graduate me.

Q Did you take a test that day before they told you that?

A No.

Q Have you ever seen white men at the training school of the union?

A Yes.

Q Have you ever seen a white man take a test on a piece of machinery?

A I see a white guy took a test coming in. When he comes to the school, he took a test. But I never see a white took a test to come out of the school.

Q Do you know whether or not any union members, book men, are at the training school?

A Yes.

Q How do you know that?

A Well, after workingwith guys, they are book men, they can only operate the backhoes, so they come back to the school to operate the bulldozer and front-end loader.

Q Have you ever met such a person at the school?

A Yes.

Q What did he say to you and what did you say to

him, if anything?

A They put the guy with me on the bulldozer and he told me that he had a union book, showed me his union book, and told me that he doesn't want to learn to operate the bulldozer because he has his union book. He came to school to learn to operate the cherrypicker but the cherrypicker wasn't at the school at the time, so he leave.

Q Was that person white or black?

A White.

Q Do you have any idea how old he was?

A About 22, 23, something like that.

Q This job at Kennedy Airport, when did that end, what month, if you remember?

A Some time in November, 1973.

Q What did you do after it ended?

A Well, I went to the union hall and I would say it was slow, but not for everybody slow, slow for some people. It is always slow for some people.

Q How long did you wait in the hall at that time for your next job?

A About seven weeks.

Q Were there other men waiting in the hall?

A Yes.

Q What is the longest you have seen a particular

white person wait in the hall for a job?

MR. BRADY: I object to that.

THE COURT: How could he tell that?

Q While you have been sitting in the hall, Mr. Henlon, what is the longest you have ever seen a white person stay in the hall?

MR. KENNEDY: Objection. If he can identify the person by name and a definite time, we can rebut that testimony perhaps, I think that is only fair, your Honor.

MR. DEVORKIN: My question was much broader than that.

THE COURT: That is the trouble with it.

MR. DEVORKIN: Can I make a proffer?

THE COURT: Yes. Is he going to identify the person?

MR. DEVORKIN: He will say that he has never seen a white person stay in the hall longer than a certain period of time, any, that includes everybody.

THE COURT: All right.

MR. KENNEDY: I appreciate the Assistant United States Attorney's offer in front of the witness.

THE COURT: He obviously spoke a little bit before.

Q Mr. Henlon, what is the longest period of time

you have seen a white person stay in the union hall?

A I would say two weeks.

Q You said before that sometimes, I believe, that it is not slow for everybody?

A No, the hall is never slow for everybody, it is slow for some. Some guys it is always busy.

Q What do you mean by that?

A Some guys always get work. You have some guys who just get laid off, come into the hall today, tomorrow you see the guy going out again and you still sit there.

Q Are those men white or black?

A Most white. There are a few black get the same, have the same break.

THE COURT: You went back on two or three occasions and got a job the next day, didn't you?

THE WITNESS: Yes, yes. My second job was like that.

THE COURT: Yes.

THE WITNESS: Of course, at that time you didn't have much guy in the hall who can operate scraper.

Q When you were called back by the hospital to work, who called you back to work at Kennedy Airport? Which contractor was that?

A Columbia Asphalt.

Q Did they call you or the union called you?

A Columbia called me, not the union.

Q You didn't get that job from the union?

A No. I got the job the first time from the union, but the callback is from the contractor.

Q You say you waited in the hall starting in November for seven weeks without a job?

A Yes.

Q What happened, if anything, at the end of the seven weeks?

A Well, I went to Danny Murphy. I told him that I am in the hall seven weeks now and I see permit man go out, a guy came in after me went out. "What happened to me? I am a book man."

So he said, "Okay, hold on." And he sent me out the next week. I went on a well point job at Kennedy Airport for five weeks.

Q The permit men that were going out before you, were they white or black?

A Most white, but there were a few blacks involved.

Q During the seven weeks did you stay in the hall every day or did you leave?

A Not every day. Almost every day.

Q Were there other men in the hall at that time?

A Yes.

Q How many of them were black, would you say?

A Well, maybe -- I would say maybe 10 per cent;

10 per cent black.

Q Did those men leave or did they stay at the end of the week?

A Well, most of the time you find the black and white leave, but most of the time you find most blacks staying over there until maybe 11 o'clock, until everybody leaves the office.

Q Were those blacks there at the end of the week or were they gone?

A You will find blacks there at the end of the week.

Q After the well point job, what did you do?

A I went back to the hall and I spent the next week at the hall, and Columbia Asphalt called me at my house again.

Q What did they say?

A To report to Starrett City on scrapers.

Q Did you do that?

A Yes.

Q What did you do when you reported there?

A Well, I went to operate the scraper.

Q Did anybody ask you if you were a book man?

A Yes. The master mechanic.

Q What did you do?

A I showed him my union card.

Q Do you remember when that job began?

A Some time in January of '74.

Q How long did it last?

A Until some time -- I think it was some time in May. I think some time in May.

Q What did you do when it was finished?

A I went to the union hall.

Q And how long did you wait for your next job from the hall?

A Five weeks.

Q Did you do anything at the end of five weeks?

A Well, at the end of the five weeks I went to the president. I told him that I don't understand all this sharing of the work going on because you have one set of men reaping the sweets and one set of men getting nothing.

So he said how long I am sitting here, and I said, "Five weeks." And he said, "That's not supposed to happen."

Q Did he say that or did you say that?

A The president told me that that don't suppose to happen, I don't supposed to sit in the hall for five

weeks. without getting something.

Q Did he say anything else?

A He told me to go to his son.

Q Did you?

A Yes, I went to his son and I told his son that I sit here five weeks now and I don't get anything, and I see one set of men going and coming.

So the son said, "Okay, come to the union hall every day." That was the Monday, and the Tuesday he sent me on the job.

Q What kind of a job was that?

A A backhoe, to operate a backhoe.

Q How long did that last?

A Eleven days.

Q What did you do when it was done?

A Went back to the hall.

Q When was your next job?

A The next job was about -- I spent about five more days there and he sent me on the next job, the son, and the job -- he told me that the job was a day work on the bulldozer. After I finished the day the contractor asked me if I could operate the front-end loader. I told him yes and he gave me three more days.

Q What did you do when that was finished?

A I went back to the union hall.

Q How long did you wait for your next job?

A Well, about the next five weeks. I got the next day the same kind of job for one day.

Q What kind of job was that?

A It was a -- I was an oiler on an asphalt spreader.

Q When was that last job, the one-day job?

A That is early this month.

Q When it was over what did you do?

A I went back to the hall.

Q Have you had a job since then?

A No, no.

Q Have you had any trouble getting paid for the last job?

A Well, I have a lot of problems.

Q Tell us what happened.

A Well, the -- when I finished the job the contractor told me that he is not paying me because I don't do nothing. So I told him that is not my fault. The union send me on the job as an oiler; your job is to grease the machine. I greased the machine. You have nothing more to do until the finish, spread the asphalt

in the evening -- you spray it that the asphalt don't dry up on the machine. And he told me he can't pay me for that.

So the Friday I went into the hall, I told Mr. Murphy --

Q Which Mr. Murphy?

A Danny -- "The guy don't pay men."

He said, "Okay," he'll contact the guy.

Q Do you remember when this Friday was? How long ago was that?

A Three or four weeks.

Q You said what?

A "The contractor told me that he is not paying me."

So I told Mr. Murphy that the contractor say he is not paying me.

So I said to the contractor, I said, "Well, we don't have to have no fuss about that. The union sent me on the job, the union is supposed to get my pay, so we don't supposed to have any fuss."

The contractor told me that he can pay the president $300, "and you get no pay."

Q Did you tell all of that to Mr. Murphy?

A Not the same time.

Q What did you tell him the first time?

A I told Mr. Murphy that the guy refused from paying me. That was a Friday.

Q What did he say or do?

A Mr. Murphy called the contractor at the office. I don't know what they talked about but Mr. Murphy come to me and say that "Okay, John, the next couple of days the contractor will post a check to you."

Well, I wait; one week passed, the contractor don't send the check. I called Mr. Murphy the next week and he said, "Okay, we'll contact the guy." I don't get the check.

Last week, Thursday, I went into Mr. Murphy and I said, "Up to now I don't get the check. Therefore, I am demanding pay from that time until any time I get the check, because if the guy don't pay me off and don't lay me off" --

Q Why did you make that demand?

A Because it's in the contract.

Q What did Mr. Murphy say?

A Mr. Murphy told me that I can't do that. Because if I trying to be technical, all the contractor have to say thay he didn't employ me.

Q What did you say?

A So I said to Mr. Murphy, well, that's why I

believe when the contractor told me that he can pay the president $300 and I don't get paid,because up to now I don't get paid and he is backing up the contractor now by saying that the contractor can say he didn't employ me.

Q What did he say?

A Mr. Murphy said, "Okay, you will get your money."

His father came out and said, "Okay, if I have to pay you out of my pocket, you will get your money." And Mr. Murphy called the contractor, he bring in the check Friday, last week,Friday.

Q Did Mr. Murphy at that time say anything about this case?

A Mr. Murphy told me that I am telling a lie about the contractor, when the contractor told me that he can pay the president $300. He said it's a lie, "You are telling a lie, just like you make up a lot of lies to the attorney."

Q Which attorney?

A You.

Q Did he say anything else?

A No, that's all he said.

Q Did you ever turn down a job?

A No, never.

Q Why is that?

A Because I can't afford to turn down a job because I am always in need of a job.

Q Have you ever seen any operating engineers on the job who couldn't operate the piece of machinery they were assigned to?

MR. BRADY: Could we get an identification?

THE COURT: Yes.

Q First, have you ever seen that?

A Yes.

Q When did yousee that?

A On several jobs I see that guys come on the job and they can't operate --

THE COURT: Now let's identify them.

Q If you remember, which jobs were those?

A Well, I work on Starrett's, down by Starrett City; they send a guy on a scraper and the guy can't operate the scraper.

Q Was that man white or black?

A Both white and black.

Q It happened to two men?

A Yes.

Q It was a black man that wasn't qualified?

A Yes, a black man wasn't qualified.

Q Was he the first man or the second man?

A No, that was the first guy.

Q What happened to him?

A He came there. He was supposed to start working Monday but he came there from the Friday and he asked me to show him how to operate the scraper. So I get the permission from the supervisor and I show him how to operate the scraper and he started to work the Monday. Well, he wasn't doing too good and they lay him off, the second day.

Q What do you mean, they laid him off?

A Because he wasn't doing enough.

Q You mean he left the job?

A He laid him off the job.

MR. BRADY: Objection, your Honor. He said he laid him off.

THE COURT: What's mysterious about that term?

MR. DEVORKIN: I wanted to be sure it was off the job and not the machine.

A Both off the machine and the job.

Q Did somebody come to replace him?

A Yes.

Q When?

A The next day they sent a white guy on the job?

Q Could he operate the machine?

A No.

Q What happened?

A Well, the foreman asked me to show him how to operate the scraper because my machine breaked down at the timeso I sit at the back of the scraper while he is steering and I load.

We went to the dump and I show him until, you know, he started to pick up a little. But he wasn't putting out enough so they took him off and put him on bulldozers.

Q Did they lay him off?

A No.

MR. DEVORKIN: I have nothing further.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. BRADY:

Q When you say that you are in the hall and there are permit men sent out before you, how do you know they are permit men?

A Because this guy who I associate with, I know that he don't have a book.

Q Who is that?

A Several guys that --

Q Are they black men?

A Black and white.

Q Well, give me some names of these people, thesepermit men that have been sent out before you?

A Well, you have one is Hill, one Archer, and several names --

Q Hill and Archer?

A Yes.

Q Are they black or white?

A Those are black.

Q Name a white man?

A Well, I don't be familiar with the whit guys' name.

Q How do you know that they are permit men?

A Because they told me. We work on jobs before.

Q What job did you work on with some permit man that told you he was a permit man?

A Well, I worked on the well point job I worked on.

Q Who was that that you worked with?

A That's what I am saying, I don't remember the white guy's name because I don't familiar with the names.

Q You asked him if he had a book?

A Yes.

Q He said he didn't?

A Yes.

Q How long was that before the time when he was sent out of the hall before you were?

A What?

Q What period of time was there between the time you had the well point job with this man and the time when he was sent out of the hall before you were?

A Well, the guy came into the hall after we finished that job. The guy -- after we finished the well point job.

Q Where was the well point job?

A At Kennedy Airport.

Q And how soon after that did he come into the hall?

A Well, after I finished Kennedy Airport I went to the hall for seven weeks. That guy came into the hall after me and he was sent out before me.

Q Do you know what equipment he was sent out on?

A No.

Q Areyou qualified to run the cherrypicker?

A No.

Q You don't know, he might have been sent out on a cherrypicker, isn't it possible?

A I don't know.

Q Now, you are saying that no white members or nonmembers spent an entire week waiting for work in the hall?

A I didn't say that.

Q You are not saying that, are you?

A I didn't say that.

Q There are many white members who have spent weeks in the hall, isn't that so?

A I told you that the white guys, I see white guys spend up to two weeks in the hall.

Q And that's the longest you have ever seen, two weeks?

A Yes.

Q Do you know what happens to them after two weeks? Do you know whether they just don't decide to come back?

A I see them sent out. I see them sent out.

Q Do you know what jobs they are sent out to do?

A No, no, I don't know what jobs.

Q Now, on this Starrett City job you had this problem with the contractor --

A Problem?

Q I am sorry; not Starrett City.

Which job was it that you didn't get your day's pay?

A That is with this contractor out by Belt Parkway, on the Belt Parkway.

Q What's his name?

A I don't remember his name now.

Q How long ago did you work for him?

A Just one day. I worked just one day.

Q How much were you supposed to be paid for that one day?

A Well, I am supposed to get paid -- according to the delegate I was supposed to get paid the day before because the contractor was running the machines without an engineer. He was using himself and laborers running the machine.

Q What was the total amount that you were

supposed to get paid by the contractor?

A Well, I was supposed to get paid for about 20 hours, something like that.

Q What was the total amount you were supposed to be paid? The total dollar amount you were supposed to be paid.

A Well, I got the check for $154.

Q You say he was going to pay a man $300 so he wouldn't have to pay you $154?

A Not me alone. It was not me alone that is on the job. Not me alone that didn't get paid.

T5

Q Isn't it a fact that Mr. Murphy asked you to come back into the hall the next day to confront this contractor?

A That was last week, Friday.

Q Last week?

A Friday. I went to Mr. Murphy Thursday.

Q Didn't he ask you to come back the next day to confront this contractor and hear his statement?

A No. He didn't ask me to confront the contractor. He told me to come to the hall Friday because my check would be there. But I have to come to court Friday.

Q Didn't he tell you that the contractor would be there Friday?

A He told me the contractor will bring the check, so I didn't have to meet the contractor.

Q You didn't go there?

A I came to court here Friday.

Q How long have you been coming to court?

MR. DEVORKIN: I object to that. What does that have to do with anything?

THE COURT: He said he was in court.

MR. DEVORKIN: He was under subpoena waiting to testify.

THE COURT: That is a perfectly proper question.

Q How long have you been coming down to court?

A Today is the third day.

Q Did you ever come down to court before to speak to Mr. Devorkin?

A Before?

Q Yes.

A Yes.

Q Rather than go to the hall for work?

A I leave the hall -- I went to the hall because I don't spend the whole day. I reach the hall 7 o'clock and I leave 11, so I came here after that.

Q Do you go to the hall every day that you are out of work?

A Most every day; almost every day.

Q Describe for me, if you will, the work that you did in Jamaica in the bauxite plant.

A I do mining, road building.

Q What is the mining work?

A Mining bauxite, you dig, dig, say 80 feet down.

Q What do you dig with?

A I don't dig 80 feet down. The crane loads the scraper with the stuff. If I am on the dozer, then I push the stuff.

rp3 Henlon-cross

Q If you are operating a scraper where does the crane put the material?

A In the scraper.

Q Right in the scraper?

A Yes, in the bow.

Q What do you do with it?

A I drive it to the plant.

Q At the plant, what do you do, dump it?

A Yes, driving on a bridge and dump it on the bridge.

Q Is that what you do all day long, back and forth, dumping this material?

A Yes, when I am on the scraper, yes.

Q What do you do on the bulldozer?

A Road building and mining, push trees and rock.

Q The road building, is that out where the plant is, where the mines are?

A You make a road from the mine to the plant.

Q Rather rough road work?

A Yes. You have to in most cases rip on the bulldozer. I don't see much of it here.

Q You said you worked a while erecting a new plant?

A Yes.

Q Do you recall that?

A Yes.

Q You worked there six months. Why was it that you left after six months?

A Because I got a job closer to my home.

Q This was back in the mining operation again?

A No, not mining, that is construction. Mining and construction are two different things.

Q The job that you got closer to your home, what was that?

A Construction.

Q What?

A Alcoa, aluminum plant, putting up a new plant.

Q I take it that is a job you were on for six months?

A That is Revere. That is the job two years, that is my last job.

Q You went to see Eddie Johnson?

A Yes.

Q When was that?

A It was some time in 1971 when I came here.

Q Was that before you went with the union?

A Yes.

Q He told you that you would have to wait a while, right?

A Yes.

Q How long did you wait before you went back?

A Well, maybe about six months or so because I was working.

Q That is when you were working as a laborer?

A Yes.

Q When was it you first went down to the union?

A Some time in 1972.

Q Do you know what month in 1972?

A I don't remember the direct month, no.

Q You spoke to Danny Murphy at that time?

A Yes, on 15th Street.

Q 15th Street?

A Yes, the union hall was there at the time.

Q What precisely did he say to you?

A I went in there and I didn't know his name, but I went to him and I told him I was a heavy duty operator.

He asked me what I can operate. I told him. He told me a lot of guys say they can operate this and that and can operate nothing.

I said, "Well, I spent years in this thing and I wouldn't come in here and tell you I can operate if I can't operate."

Q What did he say?

A He told me he doesn't have no job. I said okay. "I am asking you to give me a form to fill in that I can become a member of the union." He told me no. So I asked him his name. He told me Danny Murphy.

Q Did he say anything about signing on the list, out-of-work list?

A No.

Q What happened then?

A Well, I went to this Apprentice Program in Fulton Street.

Q Did you join the Apprentice Program?

A Yes.

Q How did you find out about that?

A Some friend told me about it.

Q Did Mr. Murphy mention it to you?

A No.

Q How soon thereafter did you come back to the union?

Aa Well, I don't remember the direct time, but I get a letter from Mr. Jordan of the Apprentice Program. Mr. Jordan states the equipment on the letter that if I can operate any of the those equipment report to him for immediate employment.

So I went to him, he gave me a letter to take

to the union.

Q Then once you got into the union they send you out to school, is that it?

A I went to the union.

Q Yes.

A Mr. Murphy told me to go down to the school to take the test.

Q Right.

A So I went down there and took the test.

Q How soon after you took the test were you in the school?

A Maybe two or three months.

Q Two or three months. Were you working during that time?

A Yes.

Q Working out of the union?

A Out of the union.

Q That is where you had a number of jobs and some jobs you were out of work on Friday and went to work on Monday, isn't that so?

A Where?

Q From the union.

A No. When I went to this school and took the test, after I passed the test Mr. Murphy told me to come out.

I come to the hall and there was nothing.

Q You say about three weeks, didn't you?

A Where?

Q At the hall.

A More than three weeks. I spent more than three weeks at the hall. So Mr. Murphy asked me to come to the school because things were slow and I could see myself that things are slow. So he asked me to come to the school to learn to operate the backhoe and I do that. Within four weeks he sent me on a job.

Q When you first went out there you say the instructor said you passed. Who was the instructor?

A A colored guy. I forget his name, Charles something.

Q Charles?

A I believe it is Charles.

Q Was that his first name or his last name?

A First name.

Q You don't know his last name?

A I don't know his last name.

Q He said you passed the test?

A Yes.

Q Did he mention anything about a backhoe?

A Yes, I told him from the start, which I told Mr.

Murphy, I know nothing about the backhoe.

Q But he said you passed the test on the backhoe?

A No, I couldn't pass the test on the backhoe. I don't know anything about it. I passed on other equipment but not the backhoe.

Q Wasn't the backhoe part of the test?

A It is supposed to be, but I didn't go to the backhoe because I told him I knew nothing about it.

Q You told him there is no use going on the backhoe because you couldn't operate it?

A Yes, I told him that.

Q After you in fact were referred to jobs on the front-end loader and the bulldozer by the union before you completed the school?

A No. The union sent me on bulldozer, scraper.

Q Right.

A But within this time I operated the front-end loader.

Q But you were referred to those jobs by the union before you completed the school?

A The union didn't sendme on the front-end loader.

Q But the dozer and the scraper?

A Yes. But the contractor put me on the front-end loader.

Q But you were referred by the union, wasn't that so?

A I don't get that. The union never sent me on the front-end loader. The union send me to operate the bulldozer and scraper but the contractor move me.

Q He put on the front-end loader?

A Yes.

Q Did the union know that you were on the front-end loader?

A I don't know. But that come under the same procedure. Like if you are an engineer there is nothing wrong with that.

Q On any job that you were sent to by a contractor, called for by a contractor or transferred to another machine by a contractor --

A Yes.

Q Did the union ever interfere with you on those jobs?

A No, no, never.

Q You said you were sent to operate a D-8 dozer?

A Yes.

Q Who told you the job would only last four days?

A Mr. Murphy gave me the slip in the morning, he said the job might last about four days.

Q What was the job, what function were you doing?

A Well, they were putting up some kind of factory, so I was preparing the site, pushing the stuff.

Q When you first got on the job did they tell you right away this job would be a long job or a short job, the contractor?

A No, the contractor told me the same thing as Mr.Murphy, "John,this job will last maybe four days."

THE COURT: I think maybe we better adjourn for lunch. 2.15.

(Luncheon recess to 2.15 p.m.)

AFTERNOON SESSION

(2:00 p.m.)

J O H N H E N L O N resumed.

CROSS EXAMINATION CONTINUED

BY MR. BRADY:

Q You testified that on the Starrett City job the black operator of a scraper had been let go, laid off?

A Yes.

Q And who laid him off?

A The company that he worked for.

Q Thereafter a white scraper operator came on the job.

Do you know where he came from?

A No.

Q And who transferred him from the scraper to another piece of equipment?

A The management transferred him.

Q Now, Mr. Henlon, you started to school in about January of 1973, isn't that so?

A I don't remember the direct month but I know in '73.

Q And then, thereafter, you had 10 weeks on a dozer and then you went on a seven-week job on a scraper,

a week job on well points, and then you were working for Starrett City five or six months, and that's approximately 10 months -- over 10 months' work in 1973, isn't that so?

A Pretty near there, yes. About nine, something like that.

Q During that time you obtained your union book?

A Yes.

Q Now, at that time during this time you were working for the 10 weeks, seven weeks and five or six months, did you have any complaints about the union?

A No.

Q Is it safe to say that the only complaints started when you weren't able to be referred out on a more regular basis?

A Yes.

Q Mr. Henlon, at the present time, when you go to the dayrooms, how many men are in the hall, the dayrooms?

A A lot of men in the hall now.

Q Is there more than 100 men over there unemployed?

A Yes.

Q And aren't the greater majority of those people white?

A Yes.

MR. BRADY: No further questions.

THE COURT: You are excused. Thank you.

(Witness excused.)

MR. GLASSMAN: The government calls Jose Sotelo.

J O S E S O T E L O, called as a witness by the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GLASSMAN:

Q Mr. Sotelo, where do you live?

A 1212 St. Lawrence.

Q Where is that?

A In the Bronx, Westchester Avenue.

Q Are you married?

A Yes, sir.

Q Do you have any children?

A I have one daughter, two years old, and, you know, my wife is expecting now.

Q Where were you born?

A New York City.

Q Where wass your father born?

A Puerto Rico.

Q Can you speak Spanish?

A Yes.

Q How did you get your first training in heavy equipment?

A I was in the Job Corps.

Q Where was that?

A Well, I was in two centers. My first center was in Illinois, Golconda.

Q How long were you at the Job Corps center in Illinois?

A Approximately ten and a half months.

Q What did you do there?

A I learned how to run equipment, learned safety, you know, safety procedures with the equipment and the maintenance on that particular center, minor maintenance.

Q What kind of equipment did you run?

A Road grader, front-end loader and a dozer.

Q On what kind of project were you working there?

A Well, we were working for -- the center was run by the Department of Agriculture, the Forest Service, and

we did repair work on the roads, the county roads, you know, the service roads into the national parks, you know, forestry, and we built small projects, you know, lakes and rest areas along the roads.

We did repair work on the roads when we had landslides and something like that.

Q Were you taught any maintenance work?

A Yes, you know, as far as keeping up with the equipment. You know, ordinary maintenance on the equipment at that particular center, as I stated again.

Q Where did you go after that Job Corps center training ended?

A From there I put in for a transfer to the Jacobs Creek, Tennessee.

Q Is that another Job Corps center?

A Yes. Also, it's affiliated with the Engineers. It's some kind of a training program they have.

Q Is there another name for the Job Corps?

A Civilian Conservation Center.

T2

Q How did you find out about the Jacob's Creek Center?

A Well, I talked to my director at the other center. I also talked to my instructor and counsellor. They referred me to Jacob's Creek, Tennessee, because it was a union center. That it would be a lot easier for me to get into the union when I got back home because it was the center there that was affiliated with the engineers.

Q How did you actually get transferred to the other center?

A I just put in for the transfer and they made all the arrangements for me to go away into the other center, Jacob's Creek.

Q How long were you at Jacob's Creek?

A Approximately I was there about 16 months, but the training I had there toward heavy equipment is a 12-months' course that I took.

Q You said that Jacob's Creek was affiliated with a union?

A Yes, with the International Union of Operating Engineers.

Q Do you know if the instructors there were members of a union?

A Yes.

Q What union?

A Engineers Union Local 917. That is out of Chattanooga, Tennessee.

Q That is 917 of the Operating Engineers?

A Yes.

Q Could you describe for us the kind of training you received at Jacob's Creek?

A We had on-the-job training. We had men who were working there a great period of time and youhad men not familiar with the job, it is a 54-mile road job they are doing there, the Cherokee National Forest,and the project has been going on for approximately I think two years before I got there and it still hasn't been completed.

So as men came along, each man came in had to do something with the job, work there for his 12 months and left the job and the job was still going for other men to go into. But we had road work there. We did cut and fill, all the road work.

Then we also worked in the classroom reading our blueprints and stakes, how to read stakes, and as far as elevation and all different kinds of road work.

Q For what purpose did you learn how to read blueprints?

A Well, down in Tennessee and Virginia it is smaller than up here. You work on the job in the boondocks, they

just hand you a pair of blueprints and an eye lock and a 5-foot rod and they put you on a grader and you run the machine, keep your own grades and everything because you don't have a laborer out there pointing to you to keep you up. So you have to know more or less what you are doing, how to read the stakes and everything so you can lay out the job.

Q About how much classroom work did you get there?

A I put it in a split estimate of six months, six months in the classroom and six months in the field, because we keep switching.

One week you would be in the classroom and the following week you would go out on the field. Or else everytime they have a group out there, they set it up on a different manner.

When I first got there I had to go out every other week, you go to work out in the field and then you go into the classroom. So they cut that out and they had it where you work all summer long where the ground is still, you know, it hadn't frozen up, and when it did freeze up we go to the classroom and work from November through March or whatever, spring falls in again and then you go out in the field.

Q What kind of equipment did you receive your

rp4 Sotelo-direct

practical training on?

A On the dozer and front-end loader, road grader and backhoe.

Q When did y graduate from Jacob's Creek?

A June 11, I think, 1971.

Q I show you what has been marked as Plaintiff's Exhibit 82 for identification. I ask you if you can identify that for us?

A Yes. This certificate I was issued when I completed the program for Jacob's Creek.

MR. GLASSMAN: I offer that in evidence.

MR. KENNEDY: No objection.

xx (Plaintiff's Exhibit 82 for identification received in evidence.)

Q I show you what has been marked as Plaintiff's Exhibit 83 for identification and ask you it you can identify that for us?

A Yes. This is a resume also issued to me with the certificate at the time of the completion of the program.

MR. GLASSMAN: I offer that in evidence.

MR.KENNEDY: I am going to object to this unless the government is going to show some connection. There is nothing in the certificate as to who made it out.

THE COURT: It is on a Job Corps form.

MR. GLASSMAN: He can ask Mr. Sotelo if he was given this when he graduated.

MR. KENNEDY: What I am getting at is in the absence of any type of foundation for that, it does not indicate who prepared it, when it was prepared and under what circumstances.

THE COURT: I will take it for what it is worth. He said he received it after he finished the course.

xx (Plaintiff's Exhibit 83 for identification received in evidence.)

MR. GLASSMAN: I would like to have permission to substitute a copy for the original so the witness may have the original.

MR. KENNEDY: No objection.

THE COURT: All right.

BY MR. GLASSMAN:

Q Mr. Sotelo, when you graduated from the Job Corps Training Center at Jacob's Creek were you then referred to any work?

A Yes. Also with this certificate and this other resume I have a letter from the director in the program which is there.

Q I show you Plaintiff's Exhibit 84 for identification and ask you if that is the letter you received?

rp6 Sotelo-direct

A Yes, this is the letter.

MR. GLASSMAN: I offer Plaintiff's Exhibit 84 in evidence.

MR. KENNEDY: No objection.

MR. BRADY: No objection.

xx (Plaintiff's Exhibit 84 for identification received in evidence.)

Q What were you told about jobs when you left the Jacob's Creek Training Center?

A First of all, they made it a rule that whenever a man left this program, this one particular program here, they made sure he had a job waiting wherever his home may be and they told me that they had talked to the president of the local, Local 15.

Q Did they tell you what his name was?

A Mr. McGuire.

MR. BRADY: I object to that unless he says who told him and who spoke to Mr. McGuire.

THE COURT: Did you speak to Mr. McGuire?

THE WITNESS: No, we were talking about the arrangements of the job for me.

Q Who gave you that information?

A The one that signed the letter there, Smokey the Director, which is on the letter I just gave you there, the name of the director.

Q What did he actually tell you again?

A He told me that I had a job waiting for me in New York City running a pan.

MR. BRADY: I'll object to that. He wasn't present and heard what Mr. Maguire said. It is not binding on the union.

MR. GLASSMAN: We are saying what the person told Mr. Sotelo.

MR. BRADY: It's hearsay and not binding on Local 15.

MR. GLASSMAN: We are offering it for what the witness was told only.

THE COURT: It's binding on the international.

MR. BRADY: The international is not a party. He is saying Mr. Maguire told him he had a job.

THE COURT: He is saying that Mr. Hamilton of the international told him that the job was there.

MR. BRADY: It's hearsay. Totally --

THE COURT: Objection overruled.

Q Did the man at Job Corps tell you to see anyone when you got to New York?

A He just told me to go down and take the letter there down to the hall and see Mr. Maguire.

Q And when you came to New York what did you do?

A Well, it was on a Friday so I came down to the hall that Monday and I went right into the office there and I talked to Mr. Maguire.

Q Did you show him the letter?

A Yes, I showed him all my papers there.

Q And what else did you say to him, if anything?

A I really didn't say anything to him. You know. He was just talking to us, really. We were just listening.

Q What did he say to you?

A He said that, you know, he had heard that we were good, you know, men, and all this, and that he was proud, or, you know, some sort of thing like this, that we came out of this program, you know.

Q Did he give you a job?

A Yes. Not that same day, no. He had to shake the hall down. He told me I would have to come down and sign the list for a job, you know, and I would have to go out to the school on Saturday and check the school out, you know, that they have a good school that they had just started and things, and he would like for

me to go out there and check the school out.

Q Did you go out to the school that Saturday?

A That same Saturday, yes, I did go out to the school.

Q And did you get into the school?

A Yes.

Q Did you get a job thereafter from Mr. Maguire?

A Yes. That Wednesday I got a job, about three days later after I went down to the hall I got a job.

Q Where was that job?

A Down in lower Manhattan, 42nd, 41st Street.

Q Do you know who the contractor was?

A Slattery.

Q What kind of work did you do on the job?

A They sent me down there as a helper.

Q What specific work did you do as a helper?

A Well, I helped the maintenance men. We did more or less like steam, like the steamfitter's job. You know, we were setting up pipe that was being welded, you know. We would do the maintenance part, and the maintenance part was to set up the pipes, you know, and prefab, you know, like you set up the pipe to cut it to certain degrees and length and all that, and you handle the torth, you know, and welding, and you do tack and welding.

I couldn't do any welding because I didn't have a license. But I did welding, tacking and things like that on the job, maintenancewise.

Q How long did that job last?

A Eight and a half months.

Q What pay did you receive on that job?

A Five and a quarter.

Q Is that 5-1/4 an hour?

A Yes.

Q Why did you take that pay rate?

A I wasn't familiar with their program. You know, I knew that I had to go into some kind of an apprenticeship program or something like that. I didn't know for a fact. I am just saying I had this impression, you know, and I just took, you know--I never made that much before I left the city, anyway, and to me that was a lot of money.

Q Did you know it before you went on the job, what kind of job it would be?

A No, I had no idea what kind of a job it would be.

Q Did you know what the pay would be before you got there?

A Yes, I think I did know that.

Q Who told you that?

A I don't remember anyOne really telling me. I've heard it, you know, several times, because they already had different fellows on training program already, and I already knew that this was a stated -- like they had a set rate to pay you if you went out as a helper, which was 5-1/4.

Q Do you know about how many operating engineers were on that job?

A It was nine.

Q How many Puerto Rican operators were there?

A It wasn't any.

Q Were you the only Puerto Rican man working for the union there?

A Yes.

Q Do you know what the other men were being paid on that job?

A I think it was eight-something, 8.40, 8.45, something like that. I really don't know.

Q Did you receive a union book while you were on that job?

A No.

Q Did the foreman on that job treat you courteously?

A At first, yes, you know, when I first come on

the job, and then, you know, once in a while he used to come out with a different attitude, you know; sometimes he did and sometimes he didn't. I don't know. Depending on how his night was at home, probably.

Q What different attitude are you talking about?

A Well, you know, would treat you like dirt, or something like that, like you were just a piece of trash.

MR. BRADY: I will object to that and move to strike the answer. He can say what the man said or did.

THE COURT: Yes.

Q Can you tell us any examples of what specifically the foreman said to you?

A No.

Q Did you ever see a union delegate on that job?

A Yes.

Q Who did you see on that job?

A Maguire, Jr.

Q About how long after you were on the job did he come out?

A It was either two months or three months. I really don't remember.

Q Did Mr. Maguire say anything to you?

A Yes. He said that he had heard, you know, good reports out here about my work, and all of that, and that he was very happy to hear that.

Q Did he get you any higher pay?

A No.

Q Were you in the school while you were working at that job?

A Yes.

Q When you entered the school were you given a test?

A I wouldn't call it a test. They just put us on a machine to see, you know, if we knew, you know, more or less what was happening around, you know. Not as far as a test to see if you can run the equipment; just wanted to see, I guess, if you had been up on one.

Q Could you describe for us just what kind of a test was given to you?

A Just asked get up on -- he asked if we had ever run one of the rigs, and then he asked us to get up on it, you know. It was myself and I think two or three other fellows with me and that was it.

Then from there, you know, he just said, "You come here on Saturdays and you will get assigned to a

different machine every week when you come out here, so you can learn about different machines.

Q How long did you go to the school?

A For 10 months.

Q What kind of equipment did you operate at the school?

A A front-end loader, backhoe and dozer.

Q Do you feel this was good training that you got at the school?

A No.

Q Why do you not feel it was good training?

A Well, because I didn't, you know -- I didn't like the way they had it set up, you know. As far as trainingand, you know, they put two guys on a rig and, you know, the guy just sits, you know, stands around and you just go out there and more or less you just dig or, you know, backfill, or things like that. You know, it was nothing constructive out there to do, really.

Q How would you compare the training that you received at the union school to the training you received at the Job Corps?

A What do you mean, how would I compare it?

Q What was the difference between the training? Which was better or worse and why?

A I didn't have any, you know, related work in reading stakes and things like this, and I was already taught that this was, you know, a must in the field, you know.

Q Where were you taught that?

A When I was down South that's how we worked, you know, and, you know, everything was reading stakes and things and they didn't show us up here in the city.

Q At the union school did they give you any projects that were similar towhat you see on real construction jobs?

A Not really, except for the roadway, you know. Road construction, that's it.

Q Were you trained on any equipment at the union school which you had not operated before?

A No.

Q Did you see any equipment out there that you had never operated before?

A Yes.

Q What kind of equipment?

A The cherrypicker, roller, backhoe, you know, things like that. I'm not talking about a big backhoe, not a hydraulic.

Q Is that Local 14 equipment you are talking about?

A Yes, Local 14.

Q You didn't receive any training on that?

A No.

Q Did you stop going to the union school?

A I was terminated from the school.

Q Why were you terminated?

A For -- they said I didn't attend the school enough, you know, frequently enough, you know -- frequently, rather.

Q Did you in fact stop attending the school?

A Yes.

Q Why did you stop attending?

A Well, I felt that I was guilty, you know, for not attending the school, you know, and I thought that, you know, I broke a rule that they have set up, you know, and I thought this was a punishment that I had to take, you know, take into --

Q Why did you personally decide not to continue to go to the school?

MR. BRADY: Objection, your Honor. He just answered the question.

MR. GLASSMAN: He did not answer the question. He was asked a different question.

MR. BRADY: Is the question why he stopped

going to the school.

MR. GLASSMAN: Can the reporter read the question, please.

(Question read.)

Q The question again is why did you stop going to the school.

MR. BRADY: Your Honor, isn't that the same question?

THE COURT: No.

A Well, like I said, I got a letter from the union saying that I couldn't attend the school any more and that is why I didn't, you know, go back there.

THE COURT: Because you had been absent five times or more?

THE WITNESS: Yes, it was more than five times.

Q Why were you absent from the school. Why did you miss class?

A At first I talked to Danny Murphy and I told him that I had to take the Saturdays off so I can, you know, get myself a second job because I wasn't making sufficient money on this job that I had with Slattery. And he said it was all right for me to take the time off, you know, and that when I get ready to come back to the school, just to notify him, you know, when I get myself

straight, notify him and it would be all right for me to come back out to the school.

So I made one attempt to call him back on time and I told him, you know, that I was ready to come back out to the school and everything, and he said it was fine, to come back out to the school. So then I didn't go back because of something, you know, that happened, more problems at home that came up, and I couldn't make it, so June of, I think it was June, '72, I got terminated. I got a letter on my job, the job that I am on now, saying that I was terminated from the school.

Q At that time were you working?

A Yes.

Q Where were you working?

A Perini North River.

Q How long were you working at Perini?

A At that time I had about a year and a half in.

Q Is that your present job?

A Yes.

Q Before you worked at Perini and after you worked at Slattery what kind of work did you get?

A Well, I used to go down to the hall and I would get maybe a one-day's stand or something like this. I worked for Water Construction on 181st Street for, I

think it was, two or three days. I went out as a permit man then.

Q For about what period of time were you getting the short jobs?

A From February to July, when I accepted the job on Perini, the job I am on now, the present job.

T4

Q Before that did you work for Columbus Asphalt?

A Yes.

Q When did you work for them?

A Excuse me?

Q When did you work for them?

A I think it was the beginning of 1972.

Q What kind of work did you do for them?

A I was operating a scraper.

Q How long were you working on that job?

A About four or five weeks.

Q Did you get a union book on that job?

A No.

Q What kind of pay did you get on that job?

A I got scale.

Q Do you remember what that was, about?

A About $8.40.

Q In your present job with Perini, when did you first start that job?

A July 7, 1972.

Q Will youtell us how you got that job?

A I just got a letter from the New York Plan offering me this job as a trainee.

Q Did you apply to the New York Plan?

A No, I never applied to the New York Plan at all.

Q Had you heard of the New York Plan before you got the letter?

A No -- yes, excuse me. Yes, I did. Danny Murphy was telling us out at the school when I was attending school that there is a new program coming in, the New York Plan, a program is coming in, but that is all I knew about it.

Q You never applied for the New York Plan?

A No.

Q What did this letter that you were sent say?

A That there was a job opening for a trainee and if I wanted to go down there, it had the date. I don't recall the date -- yes, July 7, go down on that day and I would start working if I wanted to.

Q What year was that?

A 1972.

Q What did you do when you got the letter?

A I called up Danny Murphy and I asked him what was this about, that I didn't know what the New York Plan was about, and I asked him if it was all right for me to take the job because I just got off Columbus Asphalt and I needed a job desperately.

I asked him if it was all right to take the job and he said, yes, that it was all right for me to take it,

I would benefit from this job.

Q Why did you ask him if it was all right to take the job?

A I didn't want to violate any rules of the union. I was trying to get into the union without breaking up any of their rules or anything. I didn't want to just take the job.

I didn't know if it was -- if I would be breaking any rules by taking the job without informing anyone from the union.

Q What happened then?

A Well, I went down and I saw the safety engineer on the job there and we filled out an application together and I started working there the same day.

Q Did they ask you what experience you had before?

A No, they didn't ask me anything about experience.

Q What kind of work did they start you doing?

A Maintenance trainee, they call it, operating trainee, different titles. I really don't know what they called this.

Q How much were you paid on that job?

A I started with five and a quarter.

Q Did you ever try to get an increase in pay on

that job?

A No.

Q Did you ever tell anyone about your prior experience?

A Yes.

Q Who did you tell?

A I told the foreman that I worked with and some of the fellows that I worked with.

Q What did you tell the foreman?

A Excuse me.

Q What did you tell the foreman?

A I told him that I was in the Civilian Conservation Center in heavy equipment program and I completed it.

Q What did he tell you?

A Really didn't say anything, just talking between us, that is all.

Q Did you get any credit for your prior experience?

A Well, after I worked there I think four or five months he was very happy with my work, the foreman was, and this was something in there about this Safety Engineer -- excuse me, I got to straighten something out.

When I was working there the foreman that I worked for was actually working for Spencer & White, because they had the subcontractor. Perini was the overall contractor

on this job on the North River. I was working for Spencer & White.

That foreman, Spencer & White, told me that he was going to try to get me a book and he was going to talk to the supervisor and other people, to see if he could help me get my book.

Q Did you ever get a book there?

A No.

Q How long did you work for Spencer & White?

A About eight and a half months.

Q What kind of work were you doing during that time?

A Working with turn drills and maintaining them, four maintenance men, and we did everything from cable changing to pulling out transmissions and putting clutches in. I even knew how to run the machine, too.

We did track changes and changing tracks on there and radiators, lots of maintenance work on them.

Q Where did you work next?

A Well, after Spencer & White completed that cofferdam in that area of that job, they finished their part and sent me down to Perini, since they had the whole contract. Just sent me right down to them, and I started to work for them as a trainee.

Q What kind of work did you do for them?

A Trainee also. I worked in the shop. Then they have some kind of set-up where they switch us around every three or four months, five months, to different jobs; that you learn how to weld maybe, do maintenance work on the pump and generator, compressor.

Q How much did you get paid on this job?

A I started at five and a quarter and every year I got like a 50-cent raise and I get a 15-cent raise from the union on the contract settlement.

Q For whom do you work at the present time?

A Perini, North River.

Q How much are you making right now?

A $6.70 an hour.

Q Are you doing the same maintenance work as any union members on the job?

A Yes.

Q Have you operated any heavy equipment on the job?

A Just one, a turn drill, and then we were operating in the sense of putting a couple of hours in the seat, just maybe five or ten or fifteen minutes on it, that is all.

Q Have you ever spoken to the foreman or master mechanic about getting operating experience?

A I haven't, but several of the other fellows on my job have, and they said they don't allow that, the contractor doesn't want --

MR. KENNEDY: Objection and move to strike out as not responsive to the question. He asked a specific question about whether or not he had any conversations and then the witness launched into conversations that he had with otherpeople. I move to strike it out as not responsive.

THE COURT: Find out who the conversations were with.

Q With whom did you have such conversations?

A A young man by the name of Rubin something. I can't remember his last name, but he was on the job, too, as a trainee also.

Q A black man?

A No, Puerto Rican fellow.

Q During your entire period as a New York Plan trainee have you ever been placed on any equipment that you learned at or were trained for at the union school?

A No.

Q Have you ever complained to the union about the type of work you were doing there?

A No.

Q Have you ever complained about the pay you were

getting?

A No.

Q Any reason you never complained about the pay?

A Excuse me?

Q Any reason you never complained about the pay?

A I just -- I always felt if I was doing a good job they would come over to me and tell me that they would like me to be a member or if they didn't want me, just tell me, "Look, you are not good, just take a walk."

So I left it on them to approach me with the fact of joining the union or whatever. I am just trying to make it.

Q Did they ever ask you to join the union?

A No.

Q About how many operating engineers were on the Perini job, if you know?

A We had a double shift there and on the morning shift I estimate about one hundred.

Q About how many Puerto Ricans or Spanish-speaking operating engineers, if you know?

A I don't know of any people other than one fellow working with Baker right there on the same job. He is Spanish, that is all.

Q About how many trainees were on the job?

A About twenty.

Q Do you know if there is any formal training given to trainees on the job?

A None other than maintenance.

Q When you started with this job in the New York Plan were you told how long the program would last?

A Yes.

Q What were you told?

A First I was told four years and then I was told two years.

Q Who told you that?

A The safety engineer for Perini and also Robert Scott from the New York Plan.

Q Would you like to be a member of Local 15?

A Yes, sir.

Q Do you feel you are qualified now?

A Yes, sir.

Q Has anyone ever offered to give you a test to become a member of the union?

A No.

Q Why do you want to become a member of Local 15?

A Well, I have always liked doing constructive things and in construction and I realize that this is the one I really know I enjoy working with, with operating

engineers. I didn't know what trade I wanted to get into when I was younger. Now I know how the engineers function and everything and I know it is a strong union and I would like to be one of their members.

MR. GLASSMAN: I have no further questions of this witness, your Honor.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. BRADY:

Q Mr. Sotelo, how many times were you absent before you were terminated from the engineers' school?

A I have no idea.

Q Can you identify this letter?

A Yes.

Q Is that a letter you received?

A Yes.

xx (Local 15 Exhibit F marked for identification.)

MR. BRADY: I offer this in evidence.

MR. GLASSMAN: No objection.

THE COURT: Received.

xx (Local 15 Exhibit F for identification received in evidence.)

Q The letter is dated June 14, 1973, is it not?

A Yes.

Q And is that when you received it?

A Yes. I didn't receive it. It was given to me. I didn't receive it in the mail.

Q You received it.

A Yes, well --

Q Right?

A Yes.

Q I didn't say it was mailed. I said you received it.

A Okay.

Q And you started school in '71, isn't that so?

A Which school is that? At the airport?

Q Yes.

A Yes.

Q So it wasn't until '73 that you were terminated after 47 absences, isn't that so?

A Yes, sir.

Q Whose fault was that?

A My own.

Q If you had completed the school, Mr. Sotelo, would you have gotten your book?

A I don't know this.

Q Do you know what happened to other men who completed the school?

A I know they had to wait a long time also.

Q Do you know what happened to other men who completed the school?

A They got their book.

Q This was the trade that you were interested in getting into?

A Yes, sir.

Q This was the trade that you decided to make your life's work?

A Yes.

Q And that's why you were absent 47 times?

A I stated before--as I stated before, I had problems, home problems.

Q And did Mr. Murphy give you an opportunity to return to school after that?

A Yes.

Q And you didn't do it?

A Then my -- I had someone pass away, you know, so I didn't do it. I just, you know, went completely -- I lost my head, like, and I didn't keep in touch with it.

Q When you first went down to the union you were referred out to work, were you not?

A Yes, sir.

Q And isn't it a fact, as you said, you were referred out to operate a scraper while you were in school?

A While I was out at the other school, yes.

Q In Kennedy?

A Yes.

Q Yes.

A I was running a scraper, yes.

Q Isn't it a fact that you were referred out on a backhoe while you were in school?

A Yes.

Q And isn't it a fact that you made the determination to join the New York Plan?

A Well, Ididn't join it exactly. Like I said, I had the offer for that job there and I just accepted it. I don't know if that's what you call joining it.

Q Well, you voluntarily accepted, isn't that so?

A Yes.

Q At that time you were being referred out of the union for work, isn't that so?

A Yes, I had already, yes.

Q Didn't they tell you long the New York Plan would be?

A No. Like I said, I heard a couple of the fellows talking about how long the program was going to be and that was it. I didn't have no written statement stating -- any kind of a contract or anything stating how much time I would spend on this program or what.

Q When you went down in response to the letter from the New York Plan, did you talk to somebody about the plan?

A I talked to the safety inspector.

Q Where is that? On the job?

A Yes.

Q The Slattery job?

A No. I am referring to the present job that I am on now. When I first started there I talked to the safety inspector.

Q Is that where you started the New York Plan?

A Yes. This is my second helper's job. My first one was with the plan, the union. They sent me down. Then after that job I got laid off, I went on odds and ends, right.

Q You were referred out of the union?

A As a permit man, yes. And then from there I went into the plan.

Q That was after you dropped out of school?

A No. I was still attending the school.

Q When you went down to the safety director didn't you ask him about the training plan?

A Yes. And he informed us about it. Some of the things. He couldn't really state the period of time because it was two different programs or three running in there. Like they have the dock welders and the engineers, and representing the subcontractor, so he couldn't say, "You have this much time and you have this," he was all confused himself. He didn't know how was the program set up.

Q Did you make an effort to find out how long the training program would be?

A No.

Q You had no idea how long it would be?

A No.

Q Did you ask him what the rate of pay was before you started?

A I knew it was 5-1/4 from the letter.

Q How much money did you make last year?

A How much?

Q Yes.

A I don't know offhand. I don't know.

Q Wasn't it over $13,000?

A Yes.

Q Was it $14,000?

A I think it was even higher than that. I really don't know.

Q Was it over 15,000?

A Yes.

Q Was it over 16?

A Yes, something like that. I really don't know. I got, you know -- like I told you, I don't keep it in my head. I just scrap it each year.

Q Was it about 16 or 17 thousand dollars?

A Yes.

Q And you are assigned as an operating engineer trainee, are you not?

A Yes.

Q And when you complete your training, Mr. Sotelo, would that have any relationship to your membership in the union?

A Will what have any relationship?

Q Completing your training.

A I can't get that clear. I can't understand

what you are trying to say.

Q I am sorry. It's an awkward question, I'll agree.

When you complete your training --

A Is that the one on the training program I am in now.

Q Are you in any other training right now?

A I am in the New York Plan training program.

Q That's what I am asking you.

A Before I was in the apprenticeship training for the union.

Q When you complete the New York Plan training isn't it a fact that you will become a member of Local 15?

A That's what we are led to understand, yes. I don't know about it being a fact.

Q Well, that's right. We can't be sure you are going to complete it?

A Right.

Q You said you haven't seen any Puerto Rican operators on the Perini job, is that so?

A Yes.

Q Have you seen any black operators?

A Yes.

MR. BRADY: No further questions.

MR. GLASSMAN: No further questions.

THE COURT: Excused.

(Witness excused.)

MR. DEVORKIN: Would it be out of line if I asked to take the afternoon recess now?

THE COURT: Just a short recess, yes.

(Recess.)

MR. DEVORKIN: Plaintiff calls Austin Williams.

A U S T I N W I L L I A M S, called as a witness by the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DEVORKIN:

Q Mr. Williams, how old are you?

A I am 27 years old.

Q Where do you live?

A 360 Washington Avenue, Brooklyn, New York.

Q Are you testifying under subpoena today?

A Yes.

Q Areyou currently employed?

A Yes, I am.

Q For whom?

A Terminal Contractors in College Point, Queens,

as a trainee.

Q What kind of a trainee?

A With the New York Plan, operating engineers.

Q When was the first time that you tried to get training as an operating engineer?

A Approximately June, '72.

Q What did you actually do?

A At that time I went down to New York Plan office and filed an application and that was that for that period of time.

Q Did you hear anything from them after you filed the application?

A No, I didn't. So I went down about approximately six months later and I filed another application.

Q What happened, if anything, after that?

A Approximately three months later I was called to work.

Q Who called you?

A The New York Plan.

Q Do you remember the man's name?

A John Bennett.

Q What did he tell you?

A He called me at the house and he told me to meet him 12 o'clock the next day in front of his building and he would drive me out to the job site that I would be working at.

T6 Q Do you remember approximately when this was, what year and month?

A This was approximately April, 1973.

Q Did you go out to a job site with this man?

A Yes, I did.

Q What happened there?

A I went to the job site. He brought me into the office. I spoke to the general super, the head super or project manager is his title. We just spoke about what I would be doing and my rate of pay and certain particulars such as that.

Q What did he tell you the rate of pay would be?

A $5.15, I think. I am not completely sure. It could be $5.15 or 25.

Q Did he tell you what your job category would be?

A Yes, I would be an operating engineer working more or less in the maintenance shop.

Q Did he tell you whether you were a journeyman or a trainee?

A I was a trainee.

Q What is the name of this contractor, if you recall?

A The contractor's name or the project manager's name?

Q The contractor's name.

A Terminal Contracting Corporation, something like that.

Q Where was it located?

A This particular job site?

Q Yes.

A College Point, Queens, 127th Street and Third Avenue.

Q Were you working directly for the contractor?

A Yes.

Q At that time how many other operating engineers were working on that job site?

THE COURT: As trainees?

MR. DEVORKIN: No, engineers, I am sorry.

Q Journeymen engineers, either Local 14 or 15, and if you can tell us how many of each.

A I would say approximately 25 engineers, 14 and 15.

I would say we had approximately eight engineers in Local 14 and approximately seventeen in Local 15.

Q What were those men doing, what kind of work?

A Well, members of Local 14, they had one man on the compressor and the others are basically engineers operating the cranes that they have on the job.

Q What were the Local 15 men doing?

A The 15 men would do the burning of pipes, lathe, whatever, oiling on the various cranes, various maintenance that might be needed.

They also manned the pumps and a few other things.

Q Were there any Local 15 operators at that time on the job site?

A Yes.

Q What were they operating?

A We had two 915 loaders, front-end loaders, one 977 track excavator, one Dynahoe, a Pettibone Dynahoe. That is about it.

Q Were those constantly in use, those machines?

A You might get all of them working and you might have a situation where you might have two loaders working and the 977 might lay in the yard for a month or three months, four months, maybe.

Q At that time how many of the Local 15 engineers were black or Hispanic,if you know?

A At which particular time?

Q The time you first began to work there.

A There was one black member of Local 15 and no 14 members were black.

Q Any Hispanics that you know?

A None that I know of.

Q Were there any other trainees?

A For the operating engineers?

Q Yes.

A Yes. There was one -- there was one other at the time, David Turrain.

Q Was he there when you arrived?

A No. I was the only trainee when I had arrived. He arrived about five months later.

Q Are you still working for that contractor?

A Yes, I am.

Q What is your rate of pay today?

A Today $6.20 an hour.

Q Do you know what the rates of pay for engineers on that job was when you first began there?

A Local 15 members?

Q Yes, sir.

A I would say approximately $11.25.

Q And do you know what they are making today?

A At that particular time?

Q No. The rates that you just gave, are they today's rates?

A No, I would say they were making approximately 10 and change at that time.

Q And the 11 --

A I would say they are making about 11 and change approximately.

Q What were your duties when you first began with this contractor?

A My duties, well, what I was to do wasn't particularly delineated to me that I had to do any particular thing.

But I would assist the mechanic, bring his tools, clean up whatever has to be cleaned up, and that was just about it.

Q What do you mean when you say assist the mechanic?

A In giving him his tools, whatever he might need. He might need a socket, I would get it. He might need a breaker bar and I would get it. He might need a Crescent wrench and I would get it for him.

Q At that time did you do any repair work yourself?

A No.

Q Since then have you ever done any repair work yourself?

A Very little.

Q How frequently would you say you get to do repair work?

A Rather infrequently, really.

Q Have you ever been shown how to do repair work?

A No, not really. It was more or less a situation where I would look because much of it wasn't really that difficult.

It wasn't like I was being given formal training because we might be carrying on a conversation and I would learn through looking at what the mechanic was doing. This is the way I learned the majority of what I know.

Q Since the beginning of your work on that job site have you ever done any repair work?

A Yes, I have. There was an incident where I did repair a chipping gun.

Q What is a chipping gun?

A A small chipping hammer to chip out bricks and light stuff, very light brick and cement and so forth.

The lock on the base of the gun was broken, so I put it on the bench and I put a new lock in at that time. I think I repaired two guns.

At that time the mechanic came into the shop and he said, "Who fixed the gun?"

I told him that I had. He stated to me that I wasn't to touch his work.

An argument ensued and the foreman came in and

he more or less broke up the little fracas that has taken place.

Q Did the mechanic say anything else to you at that time?

A Well, it was stated that I was more or less stealing his work.

Q Did you say anything in response?

A Well, I stated anything that comes into the shop involves me just as well as it involves him.

Q Has there ever been an occasion where you asked to do actual work in the shop, repair work or welding?

A Yes. Not the present foreman but the foreman who was there before him.

Q What was his name?

A Jim.

Q Do you know his last name?

A No, I don't remember his last name.

I had asked if I could come in in the morning and hook up the torches and do a little burning or take the welding machine out and more or less feel my way with welding or burning.

It was stated, no, this was a scab practice and that I couldn't do it because if he let me do it, then other people would be coming by asking to do the same thing.

THE COURT: What has this got to do with the union?

MR. DEVORKIN: Well, your Honor, we are going to show, trying to show these --

THE COURT: This is the New York Plan.

MR. DEVORKIN: Yes, but moreover that it is really a sham, it doesn't give anybody any training, and it is a program that is specifically for minorities but whites aren't required to go through it and never have been and aren't today.

THE COURT: I just wanted to get the connection with the union.

MR. DEVORKIN: The union uses the New York Plan.

THE COURT: Do they control the New York Plan?

MR. DEVORKIN: I believe they have a participation in the New York Plan, and as they testified, the union testified through their officers when we called their officers that they used the New York Plan for maintenance training.

THE COURT: There is one thing about using it and another thing about being in a sponsorship. All right, let us go ahead.

MR. KENNEDY: Your Honor, if I may make just one comment? The unions subscribe to receive people who

make application like Mr. Williams for participation as trainees and there is a quota allotted to each union to receive these people and put them to work.

That is all they can do. The contractor calls their pay and everything else. We bargain for them.

THE COURT: I assume there will be evidence on it. I can see with the union school and all that, the union connection, but I didn't know whether there had been any showing that there was a union sponsorship or control over the way this plan is conducted.

MR. KENNEDY: We simply agree to give them a book when they complete their training period.

MR. DEVORKIN: We will have proof to show that this is not true.

THE COURT: They don't get a book?

MR. DEVORKIN: The program, as far as that, the proof will show --

THE COURT: Go ahead, show it with the proof and let's get to it now.

Q When this mechanic said that, was he a member of any union?

A Yes, a member of Local 15.

Q What was his job on that site?

A He is maintenance mechanic. He takes care of most of the maintenance that is needed in the field on the equipment or whatever might out there.

Q Have there ever been any other occasions either where you requested to do or learned to do work or complained about not doing work or learning to do work?

A Well, there was another incident where I was working with a welder and we were speaking and I stated my position that I was a trainee and he said, "Well, if you are here as a trainee you are here to learn," so he instructed me to take up the torch and cut out a piece of metal.

As I had gotten half way through the job the foreman had come out and taken the torch out of my hand and stated that I am a trainee and that I am not to touch tools, because if the contractor sees this, then there is no need to have a mechanic because I'll be doing the work of a mechanic.

Q Do you know if the foreman was a member of any union?

A Yes. He is a member of Local 15.

Q What are his duties on that job?

A Well, this is not the present foreman.

Q But what are the foreman's duties on that job? What is he supposed to do on that job?

A Well, he just oversees the welfare and conditions of the members of Local 15.

Q Was that welder who let you weld black or white?

A He was white.

Q Was he young or old?

A He was young.

Q Have you ever been offered an opportunity to operate the machinery that is on your site?

A Yes. Recently.

Q Who let you do that?

A This young welder that I just spoke of.

Q Were there any other occasions?

A Well, there were other occasions but they were with him.

Q What were the other occasions?

A Well, they were working on a bucket of a 950 loader and he wanted the bucket moved. So he told me to go up --

Q Who is "he"?

A The welder.

He told me to go up in the cab and move the bucket for him, which I went up and did.

Q Did anybody complain about that?

A Well, no, not this incident, no.

Q Did anybody ever complain about your operating?

A Well, the foreman, prior to the present foreman, he had, because I had gotten in the machine to start it up, and he told me, "No, don't do that. Move over, I'll do it."

Q Have you ever seen a member of Local 14 or 15 bring a relative on the job site to either operate or learn to operate?

A Yes, I have.

Q When was that?

A This was approximately two months ago.

Q Would you tell us what happened?

A Well, the man is a member of Local 14. I am not positive. I think his son has a book in Local 15, I am not sure, though.

But anyway, he brought him on the job site to facilitate hisself with the machines.

Q Which machines?

A I think it was the cherrypicker. I am not sure.

Q Any other machines?

A Possibly a 950 loader.

Q Did the man actually operate those machines?

A I would think that he had.

Q Well, did you see him?

A No, but he had come back later on. I had a chance to speak to him and he had stated that he was in the machine but the labor foreman had more or less complained about the original operator getting out of the machine. He was more or less interfering, you know, with the job that was taking place.

Q Was this father and son white or black?

A They were white.

Q Have you ever had a second trainee on the job site?

A A second trainee?

Q Yes, sir.

A Yes.

Q When did that happen?

A Well, approximately five or six months after I had gotten on the job site another trainee came.

Q Is he still there?

A No. He left, but a trainee has taken his place.

Q How long has that third person been there?

A Approximately two months.

Q Could you compare for us what that second trainee does since he's been there two months and what you do?

A There really isn't much difference in what we do. I might -- let me put this way: I might do more because I am in the shop, but it's nothing that he couldn't do. Let's say putting a valve, a crow's foot onto a vav-e, a Chicago fitting onto a valve, or somebody wants a battery charged. I would do it, but it's nothing that he wouldn't do if he was in my place.

Q Since you have been on this job site has anybody offered you, either a union member or a union officer, a book in the union?

A No, they haven't.

Q Would you like to be a member of Local 15?

A Definitely.

Q Why?

A Because I want some beautiful things in this life that money can buy, and it's an undeniable fact that you have an opportunity to make a good living in Local 14 or 15 and I want this.

MR. DEVORKIN: I have nothing further, your Honor.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Williams, you testified about an incident with a Local 14 operator and his son.

A Yes.

Q Is the 14 operator on that job on a regular basis?

A More or less. He is not an operator; he's the compressor man.

Q And how long has he been on that job?

A I would say approximately a year, give or take a month or two.

Q And is his son a member of 15?

A I am not sure but I would say that he is.

Q Why do you say that, sir?

A Because he had worked with a contractor who had done some work for Con Edison. I would imagine that Con Edison subs out a lot of work to Local 15.

Therefore, I would assume that he had a book, but it's possible that he didn't.

Q Do you know whether the 14 operator asked the foreman or the contractor if he could work with his son?

A I doubt if he asked.

Q No. I say do you know, sir?

A Do I know?

Q Yes.

A No, I don't know.

Q Do you know whether the son had a cherry-picker license?

A I don't know.

MR. KENNEDY: I have no further questions.

CROSS EXAMINATION

BY MR. BRADY:

Q Mr. Williams, what was your experience before you entered the New York Plan?

A My experience?

Q Yes, in this field.

A In this field, none.

Q What had you done before you went into the plan?

A Before I went into the plan?

Q Yes, sir.

A I went to college for approximately three years or so and I had majored in mathematics, business administration.

Q Had you worked during that period of time?

A Yes, I had.

Q What did you work at?

A I worked at Robert Hall Clothes approximately two and a half years, three years.

Q Before that what did you work at?

A I worked in the school that I had attended, Manhattan Community College.

Q Doing what in the school, sir?

A I was a tutor.

Q How much money did you make last year?

A Last year?

Q As a New York Plan man?

A Approximately $8000; possibly a little more.

Q How much money had you made at Robert Hall?

A Robert Hall Clothes?

Q Yes.

A Approximately $6500, $7000.

Q Have you ever complained to anyone regarding the training that you are getting at the present job?

A Yes, I had. I had spoken to a delegate down at the New York Plan, and this was after, oh, approximately a year or so. I just figured I would be quiet and see how things go, so things hadn't changed.

So I had called the New York Plan and one of the delegates had come down and he had spoke to me that particular time; he didn't have a chance to speak to the master mechanic or the foreman.

Q Who was the fellow from the New York Plan?

Do you recall his name?

A I only know his last name. Reyes. I can't remember the first name.

Q When you first joined up the plan did they tell you how long the training would be?

A Well, no, they didn't, when I first joined, but I had found out some time later that it is approximately three years.

Q Did you ask when you entered the training plan how long it would be?

A No, I didn't.

Q Did you know what rate of pay you would receive?

A Yes, because that was told to me.

Q Were you told anything about receiving union membership?

A At that time I really don't think so.

Q At any time. At any time were you told about receiving membership?

A Yes.

Q What were you told?

A After I had called the New York Plan I had spoken to the senior field representative and he stated to me that, after a period of approximately three years the New York Plan would approach the union with your

immediate contractor and state the conditions as to why you should receive a book.

Q So that you never expected to be offered a book until your training was complete, isn't that so?

A True.

Q What kind of work did you do, say, last week?

A Last week?

Q Yes, sir.

A Last week I had steamed down the 505 backhoe, which occupied most of my time last week.

Q The whole week?

A The majority of it. Other than that I was in the shop, let's say, charging batteries, maybe fixing hoes or dropping oil in some of the various machines that would come in, because that is what we did last week.

Q Do you ever go out of the shop to help with repairs?

A Now I do. You see -- well, let me make a point.

We have a new foreman now.

Q How new is the foreman?

A He's been there since July.

Q What type of work are you doing now, since July?

A Now I would say that this particular foreman is a little fairer and I am allowed to touch tools which I was not allowed to do for over a period of a year and a half.

Q Is this foreman a member of any union?

A He is a member of Local 15.

Q What is his name?

A John.

Q Do you know his last name?

A No, I don't.

Q What else does he allow you to do?

A Well, I have been allowed to burn and to, well -- well, not weld on any work which is related to the job but weld to more or less learn how to weld.

Q To learn the art.

Now, you said that you were working with a welder and he asked you to move the bucket; do you recall that?

A Yes.

Q How did you know how to move the bucket?

A How?

Q Yes.

A Well, many times we have jumped the batteries on the various machines. It's not very difficult.

You have three levers on the side.

Q Did someone teach you to do that?

A Like I said, not actively taught. I looked. That is more or less how I learned.

Q But had you moved a bucket prior to this incident that you told us about?

A Once. Once I was told to shut a machine down and before I shut it down I played with the levers to find out exactly what was going on.

Q Are you now getting some time on the machines?

A No, I am not.

Q Do you wish to get time on machines?

A I would like to.

Q Have you asked anyone?

A I haven't asked for the simple reason that it is more or less a rule that trainees do not operate any machinery.

Q Who told you about this rule?

A Well, no one in particular.

Q Did the New York Plan ever tell you that?

A No.

MR. BRADY: No further questions.

THE COURT: You are excused.

(Witness excused.)

MR. GLASSMAN: The government calls Hector Marr.

H E C T O R M A R R, called as a witness by the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GLASSMAN:

Q Mr. Marr, how old are you?

A Twenty-three.

Q Where do you live?

A Brooklyn.

Q For the record, what is your race?

A Black.

Q Where were you born?

A Jamaica, West Indies.

Q When did you leave Jamaica?

A '59.

Q 1959?

A Yes.

Q Where did you go in 1959?

A England.

Q About how long did you stay in England?

A Ten years.

Q Did you receive any mechanical training while

you were in England?

A Yes, sir, I did.

Q Where did you receive that training?

A People's College.

Q What kind of training was that?

A Mechanical. Auto mechanic.

Q Is that a trade school?

A Yes, more or less.

Q When did you come to New York?

A 1968.

Q Are you a member of any local union in New York?

A Local 15A.

Q How did you first learn how to operate heavy equipment?

A Through my cousin.

Q Could you describe for us how you actually reveided your first training?

A Yes, sir. He was working for L. B. Griffin, a nonunion contractor, and I went to work with him for about six weeks straight, and in his lunch break I would get on the machine and I would operate it, he would show me how to operate it.

Q What kind of equipment did you learn how to

operate?

A 977 loader.

Q About what period of time was that?

A '69.

Q About when did you make your first contact with Local 15?

A Through my -- '72.

Q How did you first get referred to the union or how did you go to the union?

A I went to the NYTCP and they referred us to the New York Plan.

Q Who?

A NYTCP; New York Training Program. And they referred us to the New York Plan. We spoke to Ed Johnson and he referred us to the union, Local 15.

Q When you saw Ed Johnson what did he say to you?

A We signed up, filled out the application and we had to go on a waiting list. He said while we are on the waiting list --

Q Waiting list for the New York Plan?

A Yes, the New York Plan. He said he would refer us to the union training school.

Q Did he send you to anyone in particular?

A Yes, to Danny Murphy.

Q Where did you see Mr. Murphy?

A At the union hall on 14th Street or 15th Street, whatever.

Q What did you say to Mr. Murphy when you got there?

A We told him that we were from the New York Plan and we were referred by Ed Johnson.

Q What did Mr. Murphy say to you?

A He said, "Well, we have no opening, there is nothing I can do for you," point blank.

Q Did he tell you to go to the union hall?

A No, he didn't.

Q Did you go back to Ed Johnson again?

A Yes, we did.

Q What happened then?

A He referred us back. As far as I understand,

he got in touch with McGuire and he sent us back to Danny.

Q Who is McGuire?

A President McGuire.

Q President of what?

A Local 15-a.

Q Did you go back to the union again?

A Yes.

Q Who did you speak to that time?

A Danny Murphy.

Q What did Mr. Murphy tell you at that time?

A Referred us to the school, come down to the school the following week.

Q Which school did he refer you to?

A The union training school.

Q Did you go down to the union training school?

A Yes, sir, I did.

Q How long did you stay in school?

A Nine months.

Q How many days a week did you go to school?

A One say, Saturday.

Q While you were in school, how long was it before you got your first job?

A Three months.

Q Where was that first job?

A Conduit Foundation.

Q What kind of work were you doing there?

A I was a helper trainee. I would say I was doing pipe work. I was helping the maintenance man set up the pipe so the welders could weld the pipe.

Q Can you describe for us physically what you would do?

A More or less he would show me how to line the pipe up and get the pipes in a certain degree, pipe set up so that the welder could weld it more or less. Operate the welding machines, the welder.

Q Do you know who actually referred you to that job?

A Yes, sir.

Q Who was that?

A Tommy McGuire and Danny Murphy. They both did.

Q During your nine months at the school approximately how much work did you get?

A Two months.

Q What did you do for money during that period of time?

A Most of the time I had to lean on my mother because Ididn't work long enough to collect Unemployment.

Q At school what kind of training did you receive?

A Heavy equipment machinery, such as the 977 loader, backhoes, rubber-tired loaders and dozers.

Q Were you ever trained on any cranes?

A No, sir.

Q Were you trained on the cherrypicker?

A One time. I was on the cherrypicker at the school.

Q One time? What do you mean by one time?

A Just once.

Q How much training did they give you?

A A half-hour.

Q About how long was it before you were given a test at the school?

A Eight months.

Q How did you get to take the test?

A I requested the test.

Q You personally requested the test?

A Well, the instructor told me that I was ready to take the test and it was his duty to go and refer me to the supervisor so that the supervisor could refer me to the delegate.

Well, as far as I understand, he did that, but there was nothing more he could do.

Q No one came over to you and told you to take the

test?

A No.

Q Do you know who this instructor was who told you to request the test?

A Yes, I know him.

Q What is his name?

A His first name is Earl.

Q Do you know his last name?

A No, sir, I don't. I can't remember it.

Q Did he tell you why you should request the test?

A Well, it appeared to me that he was scared to pursue the matter as far as I understand.

MR. BRADY: I object to that and move to strike it.

THE COURT: Strike it.

Q What did the instructor actually tell you at that time?

A The instructor told me I was ready to get out of the school because as far as he could see I was good.

Q When he told you to request the test was he speaking in any particular tone of voice?

A Well, in a low tone of voice and we were by ourselves.

Q Do you know if he had requested the test for others?

A Yes, I do.

Q Was that gentleman black or white?

A Black.

Q Did you then request the test?

A Yes, sir.

Q Who did you request it of?

A Frank Guma.

Q Is that the first person you requested it of?

A To Danny Murphy.

Q You requested it of Danny Murphy first?

A Right.

Q Did Mr. Murphy give you a test?

A He gave me a test.

Q Did you pass the test?

A Yes, sir, I was told that.

Q Who told you that you passed the test?

A The supervisor Phil and the instructor.

Q Did you then get your book?

A No, sir, I didn't.

Q What happened then?

A Time elapsed and nobody said anything to me and I went back again and requested the test.

Q Again?

A Right.

Q Who did you request it of this time?

A I went back to Danny the second time.

Q What did you tell him this time?

A I told him that, you know, Phil said I passed the test and then I also signed the paper in the office like when you pass a test they give you certain forms to sign. I signed the paper and nothing happened.

Q What did Mr. Murphy say then?

A He says, "I will just have to give you the test all over again."

Q Did he give you the test again?

A Yes, sir, he did.

Q Did you pass that test?

A Yes.

Q Who told you that you passed?

A Phil and the instructor. As a matter of fact, they told me I should get my book.

Q Did you get your book after passing that test?

A No, sir, I didn't.

Q What happened then?

A I went to Frank Guma and explained what happened. I told him that I had taken the test twice and got no results.

So he said, "Well, I will get in touch with

Danny and we will see what happens."

Q What happened then?

A They gave me the test again.

Q Did you pass the test this time?

A Yes, sir.

Q Who told you that you passed the test this time?

A The instructor and supervisor, because they told me, they said that I would get my book the following week.

Q Did you finally get the book?

A Two weeks later I got the book.

Q From your observations at the school do all men who go to the school stay as long as you did?

A No, sir. Some of them come in and out. You see them come and go. They don't even take no test.

Q White men or black men?

A White. They have their father in the union --

MR. BRADY: Objection and move to strike it as not responsive.

THE COURT: Do they have books?

THE WITNESS: No, sir, not all of them.

Q How do you know they have fathers in the union?

A They tell me.

Q How do you know they don't have books?

A They tell me. As a matter of fact, I have

trained one. They sent one with me and he didn't have no book and got out before me.

Q When did that happen?

A This happened last year, I believe it was April or May.

Q Have you ever seen any of those men on the job?

A No.

Q Have you ever seen any people at the school get trained on the cherrypicker?

A Yes.

Q White or black?

A White and black.

Q Have you ever seen people get tested on the cherry-picker?

A No, sir, I haven't.

Q After you got your book did you go to the union hall?

A Yes, sir, I did.

Q What was the first job you got referred out to?

A I got referred to a job in the Bronx by Tommy McGuire. I went to the job site to knock somebody off the job, a laborer who was supposed to have been running the machine.

I went and there was an engineer on the job who

was running the machine and I told him to knock the laborer off the machine, challenge him, and he was an engineer. He was an engineer on the machine.

I didn't have my card, I had the receipt which I just paid my dues for my union book.

Q Did you get that job?

A No, sir, I didn't.

Q Did anyone tell you to go out and challenge this man?

A Tommy McGuire told me to go and challenge the man. He sent me to the job site.

Q About what period of time was that?

A Right after I got my book, the following day. The exact date is the seventh month, 1972, the 13th.

Q July, 1972?

A Right.

Q About how much work did you get in 1973?

A Excuse me, 1973, I am sorry.

Q About how much work did you get in 1973?

A I would say two months.

Q What is the longest job you had in 1973?

A The longest job I had in 1973 was a well point job. That must have lasted about, I would say, a month.

Q Do you know for whom you were working on that

job?

A Castagnia.

Q What is the shortest job you had in 1973?

A It varies from a day, you know, to a week. I would say the shortest job is a day's work.

Q Did you get many short jobs?

A Yes, continuously.

Q What kind of short jobs were you referred to?

A Well point jobs; perhaps one or two maintenance work.

Q Were you told why you were laid off on those short jobs?

A As far as I know, the job had finished.

Q On those even one or two-day jobs you were sent out on, you were sent just before the job finished?

A Yes.

Q What is the longest job, was that for Castagnia?

A Yes.

Q What kind of work were you doing on that?

A A well point job.

Q Did you have any problems on that job?

A No, sir, I didn't.

Q Did you ever get sick during that job?

A After the job was over I went to the doctor.

As a matter of fact, before I got sent to the job I was in the hospital for a hernia and I got referred after I had the hernia operation by the union doctor, I went back seven weeks later to the union hall and I was given a well point job.

Q Who gave you the well point job?

A Frank Guma.

Q Is that a job you wanted?

A No.

Q Why not?

A Simply because I had just gotten through with the hernia operation and a well point job is not the sort of job you would give a man after he got through with a hernia operation.

Q Why not?

A Because it is heavy work, lifting, carrying pipe.

Q Did you complain to anyone about getting that job?

A No, sir, I didn't. After that I didn't complain. I wouldn't dare complain. If I complained it was like a noose around my neck.

MR. BRADY: Objection and move to strike.

MR. GLASSMAN: I can ask why he didn't complain.

MR. KENNEDY: It is the characterization.

THE COURT: He objected to the characterization.

Q Why did you complain about getting that job?

A Because I had gotten so few jobs from the union, my representative, and it is not advisable to complain about any job they give you no matter what the circumstances.

THE COURT: Have you ever complained?

THE WITNESS: No, sir, I haven't.

THE COURT: So you never had any experience where you did complain?

THE WITNESS: Not about the job. I have complained to the president about getting short jobs and not being referred to a little more steady job.

THE COURT: What happened?

THE WITNESS: The first timeI didn't get no results. I got sent to a short job and I approached the president's son and I told him that my union dues were due and I didn't have the money to pay my union dues in the union hall, I told him this.

He then more or less looked at me as if I was crazy. He looked at me from my feet to the crown of my head and said, "Who the F are you? I am not the only F delegate here." He turned his back and walked away.

More or less I was insulted, put it that way,

in front of everyone. I was made a proper fool of and I believed it my duty to approach my representative, my business representative.

I tried for a long time to get in touch with the president but it seemed like all communication had been cut off.

So I went and filed charges with the Commission of Human Rights and I wasn't getting any jobs and they had gotten in touch with them, telling me I filed a charge with them, and then I somehow got in touch with the president after they received that letter.

He called me into the office, 14th Street, and I told him the problem, that I approached his son and that I tried to explain to him that I couldn't afford to pay my union dues and he told me that was wrong of him to say what he said and that, you know, I agreed to drop the charges.

He told me that, you know, he would see that I get placed in jobs from there on. But I had gotten a day's job after that, I believe, two days' work, and then kind of weeks elapsed again and after that I got sent out by Frank Guma on a well point job.

The job lasted a month, I got laid off, and now he sent me back. I went back to the union shortly after, a week or so the job started up again and he sent me back,

still on the job. As a result of the well point job I have a hernia which I have to get operated on again.

t9jba

Q Mr. Marr, have you ever been sent out to operate equipment instead of maintenance or well point?

A In all the time, I would say three times, short jobs.

Q When you say short jobs, how short jobs were you sent out to operate?

A One, two-day, and, as a matter of fact, I was sent to Samuel Galucci and I was sent there for a day, and he liked my performance and called me over and asked me if I had any other job to go to, and I told him no.

He said, "Would you mind staying with us for a while?" and I said, "No, I wouldn't."

He kept me on for three weeks, and after the job was through I was laid off.

Q About how much work have you had in 1974 so far?

A I would say three months, so far.

Q Where are you presently working?

A Horn Construction Company, Staten Island.

Q What kind of work are you doing there?

A Well point.

Q How long have you been on that job?

A Two months.

Q What's the longest job you had before that in 1974?

A The longest job is about a month.

Q Have you ever refused a job?

A No, sir, I have never refused a job.

Q Have you ever seen white men refuse jobs?

A Yes, sir.

Q What kind of jobs have you seen them refuse?

A Well point jobs.

Q Any other kind of jobs that you have seen them refuse?

A No, sir, not that I can remember.

Q Have you ever looked for a job on your own?

A Yes, sir, I have.

Q Did you find work that way?

A Yes, I did.

Q Did you ever talk to a delegate about finding work on your own?

A Well, I was working for Petmar Builders, and this was in '72, and the supervisor came over and asked me do I have a brother. I told him yes, and he asked me, "Is he working in this line of business?"

I told him, "Well, he is going to the union

school but he is not working, He would like to, you know."

And he said, "Well, you know, kid, you know, could I get in touch with him?"

I said, "Well, you would have to get in touch with him through the union if you wanted him to come and work, you would have to get clearance from the union."

So he called the hall and he asked for my brother, Glen Marr --

MR. BRADY: Your Honor, I will object unless Mr. Marr was in the hall when the call was received or --

A He called my brother.

Q Were you there?

A This I heard from my brother. I was not in the hall.

THE COURT: I will sustain the objection. Hearsay.

Q Were you there when the call was made?

A No, sir, I wasn't there when the call was made.

Q Did any union delegate ever talk to you about that call?

A Yes. When the job was through he told me that "You guys are only making it bad for yourselves."

Q Who told you that?

A Danny Murphy. "By getting jobs for each other, you are only making it bad for yourself."

Q Did he say what he meant by that?

A Well, I presume it was because --

MR. BRADY: Objection.

THE COURT: Sustained.

Q Did he say what he meant?

A No, not that I can remember.

He said, you know -- yes, he said, "You guys don't go out and get jobs on your own," and so on, et cetera.

Q Mr. Marr, since you have been in the union have you generally been treated courteously?

A Not generally, no, sir.

Q Can you give us any particular times when you have been treated discourteously?

A On the job or in the union?

Q Have you been treated discourteously in the union, in the union hall?

A Yes, by the president's son. I felt that I was abused and insulted when I approached him and told him that I couldn't afford to pay my union dues.

Q Have you ever been abused on the job?

A Yes, sir, I have.

This present job I am on now, now the foreman is continuously -- I mean, I've been subject -- I am being, you know, subject to a lot of abuse.

MR. BRADY: Your Honor, I will ask --

MR. KENNEDY: Your Honor, this is a discrimination case as opposed to an abuse case.

THE COURT: I know it, but this goes to the credibility.

Q Could you tell us the kind of abuse that you have suffered?

MR. BRADY: I would like him to identify the foreman.

A Yes.

THE COURT: Yes. If he can testify to incidents, that's all right.

Q Do you know the name of the foreman on the job?

A Yes, sir.

Q What is his name?

A Tony Dono. I am working with him at present.

Q Do you know if he is a member of the union?

A Yes.

Q What union?

A Local 15. The same one I am in.

Q What has he said to you?

A He called me a nigger, a mellone --

Q What was that?

A A mellone, an eggplant.

Q What language is that?

A A mellone is in Italian. An eggplant is in English and I believe it means the same thing.

And, you know, a stupid so-and-so and so on. I mean, you know, continuous abuse. You know, I mean, you know, I don't mind being called names but it's a sort of thing where he is continuously on my back, which I've never been subject to something like this. And I got in touch with Frank Guma, I called Frank Guma, and as a result of this abuse is the main reason why I am here today.

At first I wasn't going to bother, but because of this abuse continuously and, you know, I decided to go through with the whole thing.

I called Frank Guma and I explained to him that this man --

Q Frank Guma is a union delegate?

A Yes, my representative.

Q When did you call Mr. Guma?

A I called him the following day.

Q What did you tell Mr. Guma?

A I told him that the foreman is continuously calling me names, such as nigger, which I don't appreciate, and as far as I am concerned nobody calls me a nigger, you know, out of the hardness of their heart, and I tried to explain this to him. So he said to me, "Well, I never had any bad reports about this man."

So I says, "Well, could you come down and, you know, straighten this thing out."

Well, a few days had elapsed and I didn't see Frank Guma, and the foreman, you know, more or less, he continued with this thing.

I went to the maintenance foreman, and he says, well, he can't do nothing until the delegate comes down. So, you know, this thing continued. And somebody from the New York contractors complains or somebody from there was checking minorities on the job, and I explained to him that I was continuously subject to open abuse, like name-calling, by this man, and he had gotten in touch with the master mechanic and supervisor and they went to the man and they told him and he denied everything, you see. And a while after that, I believe the following day, Frank

Guma came down to the job and we both told our sides of the story, and Frank said, "If I went around with a chip on my shoulder as many times as they called me a guinea, something like I would have -- I would get the hell out of the union," which that I didn't appreciate anyway, you see.

So, you know, he more or less defended the man and not me, putting it bluntly. You know, I felt that I was not represented in the correct manner as I should.

So nothing came out of it but the man called down considerably after that and --

Q Did anything worse ever happen to you on the job, than being called a name?

A Yes, he took up a hatchet handle at me that afternoon when I told -- I spoke to Frank Guma that afternoon. He came at me with a hatchet handle in the parking lot, so I, you know, I didn't do nothing and he didn't hit me with it. But he came at me. I stood still and I said, "Go ahead, use it," and he didn't.

Q Did you tell that to Mr. Guma?

A Yes, I told him.

Q What did Mr. Guma say about that?

A Well, he didn't have anything to say about

that. The man said, "The only reason why I didn't go upside your head with that stick was because I was told not to hit you."

You see, I mean, you know, constant abuse and being threatened on the job is really too much, you see, and these things are,the mere fact is because -- these things are why I am here today, you see.

MR. GLASSMAN: I have no further questions Of this witness, your Honor.

MR. KENNEDY: I have no questions of this witness, your Honor.

CROSS EXAMINATION

BY MR. BRADY:

Q Mr. Marr, you are still subject to the name-calling by the foreman?

A No, sir, I am not.

Q Did that situation get better after Mr. Guma had been on the job?

A Yes, sir, it did.

Q Mr. Marr, do you have other relatives in the union?

A Yes, sir, I do.

Q How many relatives?

A I have a brother and a cousin; two cousins,

as a matter of fact.

Q And did they all go through the school?

A Yes, sir, they did.

Q And when did your brother go through the school?

A My brother went through school six months after I did.

Q And how long did it take him to complete the course? Do you recall.

A It took him, I would say, a year and six months because simply he was held over.

Q And do you know what your brother is doing now?

A Yes, sir. As far as I know, he is working for Slattery, running a cherrypicker.

Q Has he been getting a lot of work out of the union?

A Recently.

Q How about your cousins; how are they doing?

A As far as I know, recently he's been getting jobs.

Q Are they operating equipment?

A Recently.

Q I see. When did your cousin get out of school?

A He got out of school about two months after

I did, I would say September.

Q Now, you worked for Petmar in January of '73, isn't that so?

A Yes, sir.

Q And what happened on the hob there? How did the job terminate?

A It terminated -- I had -- I got more or less a promotion. Put it this way.

The supervisor had a new project going, where he wanted me to be in charge of his trucks, some sort of a new truck, whereas I would have a laborer working underneath me, and we were going to put molds on the joints of the pipes, but it just so happens that I was sick at the time and, as a matter of fact, I called Tommy Maguire and I told him that I had to go to a New York hospital that day and --

Q Was that because of your hernia?

A No. I was having trouble with my prostate gland. I was passing blood in the urine.

Q Did you notify anybody at Petmar that you were leaving?

A Well, I couldn't notify -- I called the office and I left a message, but the supervisor was out in the field.

Q Did you tell anyone on the job from Petmar that you were laving to go to the hospital?

A Excuse me?

Q Did you tell anyone on the job?

A I left a message that I was going to the hospital. I didn't speak to the supervisor directly simply because he was out in the field.

Q Had you received any complaints from Petmar about your performance on the job?

A No. It was all praise, as far as I could see.

Q Had you received any complaints from Con Edison about your performance on the job?

A No, sir. I didn't receive any complaints. I was in training on that particular job, so I don't see what, you know, what complaints there could be.

Q You were in training?

A Right. I had gotten a promotion. I was being taught. It was a new project, as I just stated.

Q In other words, you were in training for Petmar?

A Right.

Q Weren't you discharged on January 15th by Pet-

mar?

A Yes, sir, I was.

I wasn't on the job.

Q Because you weren't on the job, you were discharged?

A Right.

Q May, 1973, you worked for Columbia Asphalt?

A Right.

Q Were you laid off?

A Yes, sir.

Q From that job?

A I was laid off simply because I've never been on a D-8 machine.

Q What's a D-8?

A It's a dozer, bulldozer.

Q Had you graduated from the school by that time?

A Yes, sir.

Q Did you have any D-8 courses at the school?

A D-7, not cable blade D-8.

Q Are they similar?

A They are the same thing but they are not similar.

Q How long did you last on that job, Columbia

Asphalt?

A I lasted two days.

Q Were you discharged because you couldn't operate the machine?

A I was discharged because I could operate the machine but I was not giving them any production. That was more -- I had just gotten out of school, you see, and I had never run a D-8 and the controls are completely different from a D-7.

Q May, 1974 did you work for Costello Construction Company?

A Yes, sir, I did.

Q And what were you doing on that job, Mr. Marr?

A Backhoe. For one day.

Q Were you laid off or discharged from that job?

A It was for a day so obviously I was laid off.

Q Were you told anything when you were let go from the job?

A I was told I didn't get paid. I didn't get paid when I got laid off because the supervisor told me that he had gotten in touch with Johnny Murphy and he said it's all right, you know, for me not to get paid.

Q Did you ask him why you weren't getting paid?

A Of course, quite naturally. I asked him why and he explained to me that he had gotten in touch with my business representative that sent me on the job.

Q Yes, and he agreed that you wouldn't get paid?

A Right. Not he didn't have to pay me that day, but the union contract rules is that the layoff is payoff.

Q You weren't paid that very day?

A Right.

Q You received a day's pay?

A Yes.

Q For that work?

A Yes.

Q Did they tell you anything about your performance on that job?

A No. For one day -- as a matter of fact, I hardly did anything on the job. I just more or less held up a pipe for the welder to cut.

Q You didn't receive any complaints?

A No, I didn't. And one more thing.

They had gotten -- my representative had gotten a letter of incompetency from that company.

Q Did he show you that letter?

A Yes, he did. And the reason for this is because I had filed charges with the Commission of Human Rights and, see, it appeared to me that that was their only help.

Q Who told you that?

A Nobody told me that.

Q You just assumed that?

A Right.

Q In 1974 how many times have you been down to the dayrooms looking for work?

A Mostly all of the time.

Q From January until now you have been down there all the time looking for work, sir?

A Mostly all of the time.

Q Well, how many weeks have you not been down there?

A How many weeks?

Q Yes.

A I wouldn't say weeks. You might say how many days.

Q But most of the time you have been down there?

A Most of the time I am there.

Q And you have only -- how many jobs have you

had?

A How many jobs? I would say in all the time I have been there about five or six temporary jobs, not including one-day, two-day work that I have been getting.

Q Not including those?

A Right.

Q What are the five or six temporary jobs? How long were they?

A When I say temporary, from a week to a month. Perhaps a month.

Q How many month jobs have you had?

A How many months? A month. One month. Perhaps a month and two weeks, you know, a month and a week, but never --

Q How many of these five or six jobs lasted over a month?

A Two. I would say two of them.

Q Is that including the job --

A Two to three of them, I would say.

Q How long did each of those jobs last?

A A month. A month, a month and two weeks, but, as far as I know, a month.

Q Now, the present job you are on, how long have you been on that job?

A Three months.

Q In 1973 was there a period of time when you didn't go down to the hall?

A Yes, there was a period of time.

Q And how long a period of time was that?

A Three weeks. Three weeks.

Q In 1973?

A Right, three weeks.

Q How long were you out with the hernia?

A I was out seven weeks with the hernia.

Q And was that in 1972?

A And first I was out -- '73. I think it was -- '73. '73.

Q How long were you out with the hernia did you say.

A Seven weeks.

Q Is that seven weeks in addition to the other three weeks you just dold me about?

A No, it is not.

Q Now, when Mr. Guma sent you out on the well point job in 1973 did you tell him you had just had a hernia operation?

A The union doctor, I presume, informed him. It's their union doctor.

Q No, you just answer my question, please.

A Yes, one second. Danny --

Q You answer the question.

Did you tell Mr. Guma that you had just had a hernia operation?

A No, I didn't. But I told Danny that I was going into the hospital to have a hernia operation.

Q When was that?

A Before I had the operation. And it was done by their union doctor and I had --

Q Did you tell this to Guma when he signed you out on a well point job,that you just had a hernia operation?

A No, I didn't tell him.

Q Mr. Marr, your testimony is that when you went down to the union after you came back from the New York Plan, how soon thereafter did you go to the school?

A I would say, to be exact, close to it, a month, close to a month, three weeks to a month.

Q Now, there was a time when the job you are presently on stopped and you were laid off for a period of time?

A Right.

Q When you restarted, were you sent back to the same job?

A Yes, sir.

Q Do you know if anyone requested you to go back there?

A I wouldn't know that because I wasn't told that.

Q Is the same foreman on that job?

A I don't know that. He didn't request it to me. He didn't make the request to me.

Q But was the same foreman on the job?

A It's the same foreman on the job, yes.

Q You don't know if he requested you back, do you?

A No.

T10

Q Is the instructor you mentioned before at the school, is that Earl Johnson?

A The last name I don't know, but I do know his first name is Earl.

MR. BRADY: I have no further questions.

THE COURT: You are excused.

(Witness excused.)

MR. DEVORKIN: We have no further witnesses tonight.

THE COURT: All right, we will start at 10 o'clock tomorrow morning.

(Adjourned to October 2, 1974, at 10.00 A.M.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
John Henlon	1439	1474		
Jose Sotelo	1493	1524		
Austin Williams	1532	1547		
Hector Marr	1555	1580		

EXHIBIT INDEX

Plaintiff	Identification	In Evidence
44-B,48-D		1438
48-E, 49-D, 49-E		1438
50-B,50-C,52,53		1438
72,73,74-A,74-B, 75,11A		1438
81		1451
82		1499
83		1500
84		1501
Local 15		
F	1524	1524

I (We) hereby certify that the foregoing is a true and accurate transcript, to the best of my (our) skill and ability, from my (our) stenographic notes of this proceeding.

Official Court Reporter
U. S. District Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	Before: HON. CHARLES H. TENNEY, District Judge
Plaintiff	
vs.	72 CIVIL 2498
LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, ET AL.,	
Defendants.	

New York, September 25,27,30, 1974
October 1, 1974

STENOGRAPHER'S MINUTES

136